FILED
MAR 4 1991
OFFICE OF THE CLERK

(3)

No. 90-952

IN THE

Supreme Court of the United States

OCTOBER TERM, 1990

JANICE G. CLARK, *et al.*,
Appellants,

CHARLES "BUDDY" ROEMER, *et al.*,
Appellees.

On Appeal from the United States District Court
for the Middle District of Louisiana

JOINT APPENDIX

BARBARA R. ARNWINE
FRANK R. PARKER
ROBERT B. MCDUFF*
BRENDA WRIGHT
JAMES HALPERT
LAWYERS' COMMITTEE FOR
CIVIL RIGHTS UNDER LAW
1400 Eye Street, N.W., #400
Washington, D.C. 20005
(202) 371-1212

ERNEST L. JOHNSON
T. RICHARDSON BOBB
JOHNSON, TAYLOR & THOMAS
5700 Florida Boulevard
Republic Tower, Suite 209
Baton Rouge, LA 70806
(504) 929-7676

ULYSSES GENE THIBODEAUX
1925 Enterprise Boulevard
Lake Charles, LA 70601
(318) 439-1060

Counsel for Appellants
*Counsel of Record

ROBERT G. PUGH*
ROBERT G. PUGH, JR.
PUGH, PUGH & PUGH
Commercial National Tower
Suite 2100
333 Texas Street
Shreveport, LA 71101-5302
(318) 227-2270

JOHN N. KENNEDY
Special Counsel to the
Governor
THOMAS A. CASEY
Executive Counsel to the
Governor
Office of the Governor
Fourth Floor
State Capitol Building
Baton Rouge, LA 70804
(504) 342-7015

Counsel for Appellees
*Counsel of Record
(Additional Counsel Listed
on Inside Cover)

JURISDICTIONAL STATEMENT FILED DECEMBER 14, 1991
PROBABLE JURISDICTION NOTED JANUARY 18, 1991

MICHAEL H. RUBIN
CHRISTINA B. PECK
RUBIN, CURRY, COLVIN &
JOSEPH
Ninth Floor
One American Place
Baton Rouge, LA 70825
(504) 383-9000

KENNETH C. DEJEAN
First Assistant Attorney
General
Second Floor
State Capitol
Baton Rouge, LA 70804
(504) 342-7014

CYNTHIA YOUNG ROUGEAU
Special Counsel to the
Secretary of State
Post Office Box 94125
Baton Rouge, LA 70804
(504) 342-2065

Counsel for Appellees

TABLE OF CONTENTS

Relevant docket entries 1

July 9, 1986 order constituting three-judge court 8

August 13, 1986 amended order constituting three-judge court . 11

July 30, 1987 order granting leave to file the fourth amended complaint 15

Excerpts from the fourth amended complaint 19

July 28, 1988 plaintiffs' motion for Section 5 injunction 42

July 23, 1990 plaintiffs' motion for Section 5 injunction 48

September 27, 1990 defendants' opposition to motion for Section 5 injunction and accompanying memorandum 65

October 1, 1990 plaintiffs' supplemental motion for Section 5 injunction 93

October 2, 1990 minute entry of single-judge court 96

October 2, 1990 letter from Michael H. Rubin to Judge John V. Parker and Frank J. Polozola . . 99

Exhibit D-1, 9/28/90 hearing -- U.S. Attorney General's November 13, 1979 letter regarding Act 635 of 1979 . . . 101

Exhibit D-2, 9/28/90 hearing -- Preclearance and submission letters regarding Acts 164 and 620 of 1977 103

Exhibit D-3, 9/28/90 hearing -- Preclearance and submission letters regarding Act 21 of 1982 107

Exhibit D-4, 9/28/90 hearing -- Preclearance and submission letters regarding Act 568 of 1981, and a copy of the act itself (only relevant portions of the act are excerpted here) 117

Exhibit D-5, 9/28/90 hearing -- Preclearance and submission letters regarding Act 39 of 1978 149

Exhibit D-6, 9/28/90 hearing -- Preclearance and submission letters regarding Act 3 of 1981, and a copy of the act itself (only relevant portions of the act are copies here) . . 153

Exhibit D-2, 10/18/90 hearing -- Preclearance letter regarding Act 21 of 1982 200

Exhibit D-3, 10/18/90 hearing -- Preclearance letter regarding Acts 164 and 620 of 1977 203

Exhibit D-4, 10/18/90 hearing -- Preclearance letter regarding Act 568 of 1981 205

Exhibit D-5, 10/18/90 hearing -- Preclearance letter regarding Act 39 of 1978 208

Exhibit D-6, 10/18/90 hearing -- Preclearance letter regarding Act 3 of 1965, Act 2 of 1966, Act 216 of 1970, and Act 5 of 1972 210

Stipulated charts regarding judgeships 214

October 20, 1990 letter from Michael H. Rubin and Robert G. Pugh to Judges Eugene Davis, John V. Parker, and Frank J. Polozola, with attachment . . . 222

October 20, 1990 letter from Robert B. McDuff to Judge John V. Parker 239

October 25, 1990 ruling of the three-judge court on plaintiffs' motion to stay a portion of the October 22, 1990 order 245

December 27, 1990 plaintiffs' motion to the three-judge court to prevent judges from holding office in the judgeships for which no candidate was elected . 247

January 4, 1991 response of the United States to plaintiffs' motion to prevent judges from holding office in the judgeships for which no candidate was elected 259

January 11, 1991 amended order of the three-judge district court . . . 268

The opinion and orders of the district court of the following dates are contained in the Appendix to the Jurisdictional Statement as follows:

October 31, 1990 . . . . . 1a

October 24, 1990 . . . . . 57a

October 22, 1990 . . . . . 68a

October 2, 1990 (single-judge) 81a

October 2, 1990 (three-judge) 85a

September 28, 1990 . . . . . 90a

September 27, 1988 . . . . . 98a

August 26, 1988 . . . . . 103a

RELEVANT DOCKET ENTRIES

July 1, 1986 --

Complaint filed.

July 30, 1987 --

Fourth Supplemental and Amended Complaint filed.

July 28, 1988 --

Plaintiffs' Section 5 motion to the three-judge district court for injunction against the fall, 1988 elections for unprecleared judgeships filed.

August 15, 1988 --

Single-judge district court issued findings of liability under Section 2 of the Voting Rights Act.

August 29, 1988 --

Three-judge district court enjoined the state defendants from conducting

the fall, 1988 elections for unprecleared judgeships, but permitted the printing and delivery of ballots in the event Section 5 clearance was obtained prior to the election.

September 27, 1988 --

Three-judge district court enjoined the state defendants from conducting the fall, 1988 elections for those judgeships the Attorney General refused to preclear.

December 15, 1988 --

The single-judge court, pursuant to Section 2, enjoined further elections for trial and appellate court judges in Louisiana, with the consent of the state defendants.

June 12, 1990 --

Single-judge district court modified earlier Section 2 findings of liability and issued an opinion regarding the type of court-ordered remedy to be implemented for the remaining Section 2 violations.

July 6, 1990 --

Single-judge district court issued order modifying the December 15, 1988 Section 2 injunction consented to by the state defendants so that the injunction, as modified, covers only judicial elections in the eleven judicial districts found to be in violation of Section 2 in the single-judge court's June 12, 1990 opinion.

July 23, 1990 --

Plaintiffs' Section 5 motion to the three-judge court to enjoin at-large elections for unprecleared judgeships filed.

September 28, 1990 --

Order issued by three-judge court permitting elections to go forward but enjoining the taking of office by the winners of the elections.

October 1, 1990 --

Plaintiffs' Section 5 motion to the three-judge court to enjoin elections for unprecleared seats that previously were covered by the single-judge court's Section 2 injunction filed.

October 2, 1990 --

Single-judge district court issued order vacating the previous Section 2 injunction as a result of

the Fifth Circuit's decision in LULAC v. Clements, and setting a special election schedule for all districts previously under that injunction (candidate qualification October 3-5; first primary November 6; runoff December 8).

October 2, 1990 --

Three-judge district court issued order permitting elections to go forward and setting a special election schedule for all unprecleared judgeships within the districts covered by the previous Section 2 injunction, but prohibiting the winning candidates from taking office (candidate qualification October 3-5; first primary November 6; runoff December 8).

October 19, 1990 --

Single-judge district court rendered final judgment under Rule 54(b) against plaintiffs on the Section 2 claims in light of the Fifth Circuit's decision in LULAC v. Clements.

October 22, 1990 --

Three-judge district court issued order permitting elections to go forward and permitting the winners to take office (with the exception of three judgeships on the Third Circuit Court of Appeal, for which the elections are enjoined).

October 26, 1990 --

Notice of appeal to the United States Supreme Court filed.

October 31, 1990--

Opinion of three-judge district court issued.

November 6, 1990 --

Supplemental notice of appeal to the United States Supreme Court filed.

UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF LOUISIANA

JANICE G. CLARK, et al.

versus

CIVIL ACTION
NO. 86-435-A

EDWIN W. EDWARDS, Governor
of Louisiana, et al.

ORDER CONSTITUTING THREE-JUDGE COURT

[Filed July 9, 1986]

(1) REQUESTING JUDGE: John V. Parker
U.S. District Judge

(2) DISTRICT JUDGE: Frank J. Polozola
District Judge, and

(3) CIRCUIT JUDGE: Alvin R. Rubin,
U.S. Circuit Judge

The requesting judge (1) above named, to whom an application for relief has been presented in the above cause, having notified me that the action is one required by act of Congress to be heard and determined by a district court of

three judges, I, Charles Clark, Chief Judge of the Untied States Court of Appeals for the Fifth Circuit, hereby designate the circuit judge (3) and district judge (2) named above to serve with the requesting judge (1) as members of, and with him to constitute, the said court to hear and determine the action.

This designation and composition of the three-judge court is not a prejudgment, express or implied, as to whether this properly is a case for a three-judge court as this enables a simultaneous appeal to the Court of Appeals and to the Supreme Court without the delay, awkwardness, and administrative insufficiency of a proceeding by way of mandamus from either the Court of Appeals, the Supreme Court, or both, directed against the chief judge of the

circuit, the presiding judge, or both. The parties will be afforded the opportunity to brief and argue all such questions before the three-judge panel either preliminarily or on the trial of the merits, or otherwise, as the court thinks appropriate.

/s/ Charles Clark
Charles Clark
Chief Judge
United States Court of
Appeals for the Fifth
Circuit

UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF LOUISIANA

JANICE G. CLARK, et al.

versus

CIVIL ACTION
NO. 86-435-A

EDWIN W. EDWARDS, Governor
of Louisiana, et al.

AMENDED
ORDER RECONSTITUTING THREE-JUDGE COURT

[Filed August 13, 1986]

(1) REQUESTING JUDGE: John V. Parker
U.S. District Judge

(2) DISTRICT JUDGE: Frank J. Polozola
District Judge, and

(3) CIRCUIT JUDGE: Alvin R. Rubin,
U.S. Circuit Judge

The requesting judge (1) above named, to whom an application for relief has been presented in the above cause, having earlier notified Chief Judge Clark that the action is one required by act of Congress to be heard and determined by a

district court of three judges, and he having previously designated a circuit judge and district judge (2) named above to serve with the requesting judge (1) as members of, and with him to constitute, the said court to hear and determine the action; and,

The circuit judge originally designated by Chief Judge Clark having stood recused in the case, and Chief Judge Clark being absent from the Circuit at this time, I, Thomas Gibbs Gee, Acting Chief Judge of the United States Court of Appeals for the Fifth Circuit, hereby designate the circuit judge (3) and redesignate the district judge (2) named above to serve with the requesting judge (1) as members of, and with him to constitute, the said court to hear and determine the action.

The designation and recomposition of the three-judge court is not a prejudgment, express or implied, as to whether this properly is a case for a three-judge rather than a one-judge court. This is a matter best determined by a three-judge court as this enables a simultaneous appeal to the Court of Appeals and to the Supreme Court without the delay, awkwardness, and administrative insufficiency of a proceeding by way of mandamus from either the Court of Appeals, the Supreme Court, of both, directed against the chief judge of the circuit, the presiding judge, or both. The parties will be afforded the opportunity to brief and argue all such questions before the three-judge panel either preliminarily or on the trial of

the merits, or otherwise, as the court thinks appropriate.

/s/ Thomas Gibbs Gee
Thomas Gibbs Gee
Acting Chief Judge
United States Court of
Appeals for the Fifth
Circuit

Dated: August 8, 1986

UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF LOUISIANA

JANICE G. CLARK, et al.

versus

CIVIL ACTION
NO. 86-435-A

EDWIN W. EDWARDS, Governor
of Louisiana, et al.

ORDER

[Entered July 30, 1987]

The plaintiffs previously filed a motion for leave to file the third amended complaint in this class action. The third amended complaint would have:

1. Streamlined the challenge to multimember judicial districts--brought under Section 2 of the Voting Rights Act, 42 U.S.C. §1973, and the Fourteenth and Fifteenth

Amendments to the Constitution--so that it raised claims only against certain specific districts rather than challenging all multimember districts statewide, and dismissed without prejudice the claims against the remaining districts which are not specified in the new proposed amended complaint.

2. Added named plaintiffs from certain districts which remained under challenge in the new third amended complaint.

3. Redefined the class, presently identified as a statewide class of black voters, so that it remained statewide for purposes of the Section 5 claims, but encompassed only the black voters in each specific district contained in the third amended complaint for purposes of the Section 2 and constitutional challenges.

4. Dismissed without prejudice the pendent challenge against multimember districts brought under the Louisiana Constitution, and contained in the previous complaint.

5. Added a number of Section 5 violations which the plaintiffs have uncovered since the filing of the previous complaint, all involving alleged failures by the State of Louisiana to preclear statutes governing judicial elections, and removed from the previous complaint

those Section 5 violations which have now been cured through preclearance.

In response to the motion, the Court denied the motion with respect to the amendments contained in No. 1 and 3 above, but granted the motion with respect to Numbers 2, 4, and 5 above. In order to conform to the court's ruling, the plaintiffs have now filed a fourth amended complaint which adds the new plaintiffs, deletes the claims brought under the Louisiana Constitution (without prejudice), and adds the Section 5 violations. The fourth amended complaint does not contain the streamlining of the Section 2 claims that was in the third amended complaint. Because this fourth amended complaint conforms with the Court's previous order, the fourth

amended complaint should be filed in this case.

Accordingly, it is ordered that the fourth amended complaint be filed with the clerk of the court in this case. This 30th day of July, 1987.

/s/ John V. Parker
Chief Judge
United States District Court

UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF LOUISIANA

JANICE G. CLARK, ORSCINI L. BEARD EDDIE G. CRAWFORD, NORBERT C. RAYFORD, AND VOTER INFORMATION PROJECT, INC., LOUIS SCOTT, SYLVIA COOKS, CONNIE SADLER, LLOYD DANGERFIELD, TOM NELSON, ALBERT RICHARD, BRENDA FORD, EDWARD LARVADAIN, AND JOSIE FRANK.

Plaintiffs,

vs. CIVIL ACTION
NO. 86-435
SEC. A

EDWIN W. EDWARDS, GOVERNOR OF LOUISIANA; WILLIAM J. GUSTE, JR., ATTORNEY GENERAL OF LOUISIANA; JAMES H. BROWN, SECRETARY OF STATE OF LOUISIANA; IN THEIR OFFICIAL CAPACITIES AS REPRESENTATIVES OF THE STATE OF LOUISIANA.

Defendants.

FOURTH SUPPLEMENTAL AND AMENDED COMPLAINT

1. This is a cause of action arising under Section 2 and Section 5 of the Voting Rights Act of 1965, 42 U.S.C.

Sections 1973 and 1973c as amended in 1982, 42 U.S.C. Sections 1983 and 1988, and the Thirteenth, Fourteenth and Fifteenth Amendments to the United States Constitution, challenging (1) the failure of the State of Louisiana to submit for preclearance pursuant to Section 5 of the Voting Rights Act a number of changes affecting elections of Appellate, District, and Family Court Judges in the State of Louisiana; (2) the use of a separate and distinct divisional at large scheme within a judicial district of electing judges which has the effect of minimizing black voting strength for the election of District Court, Family court, and Appellate Court Judges in the State of Louisiana.

JURISDICTION

2. Jurisdiction is conferred on this Court by 28 U.S.C. Sections 1331, 1343(3) and (4), and 42 U.S.C. Sections 1973, 1973a(c), and 1973(f). A court of three judges is required by 42 U.S.C. Section 1973c to adjudicate those claims arising under Section 5 of the Voting Rights Act. Plaintiffs further seek declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202.

* * *

FACTS

* * *

23. A number of statutes passed by the legislature since November 1, 1964, as well as pertinent provisions of the Louisiana Constitution passed since that time, affecting judicial elections and number of judges elected from various

divisions and judicial districts within the State of Louisiana have not been precleared by the Attorney General of the United States nor the United States District Court for the District of Columbia, as required by Section 5 of the Voting Rights Act, 42 U.S.C. Section 1973(c). Among those constitutional provisions and statutes which have not been precleared are the following:

LOUISIANA CONSTITUTION

Article Number	Year of Law	Section	Effect of Change
5	1974	15	Retained District Court in existence but stated that each could only be divided with approval in a referendum in each district or parish affected.
5	1974	22 & 24	Changed requirements for the elections of Judges.
14	1974	16(A)(5)	Retained Article VII Section 33 of the 1921 Constitution regarding the election of judges as a statute.

LOUISIANA STATUTES

DISTRICT COURTS

LA. Code	Year	Act and Part	Effect of Statute
13:477	1975	Acts 1975 No. 13	Separated 25th district and created 34th district as follows: 25th district--Plaquemines, 34th district -- St. Bernard Preserved two judgeships (Divisions A and B) for the 25th district. Created two judgeships (Divisions A and B) for the 34th district to be elected at-large. Preserved district attorney's office for the 25th district. Created district attorney's office for the 34th district.
	1979	Acts 1979, No. 635	Separated 10th district and created 39th district as follows:

			10th district--Natchitoches, 39th district--Red River Preserved judgeships for the 10th district. Created judgeship for the 39th district. Preserved district attorney's office for the 10th district. Created district attorney's office for the 39th district.
13:621.1	1973	Acts 1973, No. 117	Increased number of judges in the 1st judicial district from 5 to 6. Created Division F for purposes of nomination and election.
13:621.4	1970	Acts 1970, No. 480	Increased number of judges in the 4th judicial district from 3 to 4. Created Division D for purposes of nomination and election.
13.621.6	1974	Acts 1974,	Increased number of judges in

		No. 515	the 6th judicial district from 1 to 2. Created Divisions A and B for purposes of nomination and election.
13:621.9	1971	Acts 1971, No. 158	Increased number of judges in the 9th judicial district from 3 to 4. Created Division D for purposes of nomination and election.
	1974	Acts 1974 No. 19, No. 515 (identical)	Increased number of judges in the 9th judicial district from 4 to 5. Created Division E for purposes of nomination and election.
13:621.13	1980	Acts 1980 No. 156, No. 322	Increased number of judges in the 13th judicial district from 1 to 2. Created Divisions A and B for purposes of nomination and election.
13.621.14	1967	Acts 1967,	Increased number of judges in

		No. 40	the 14th judicial district from 4 to 5. Created Division E for purposes of nomination and election.
	1975	Acts 1975, No. 332	Increased number of judges in the 14th judicial district from 5 to 6. Created Division F for purposes of nomination and election.
13.621.15	1970	Acts 1970 No. 360	Increased number of judges in the 15th judicial district from 4 to 5. Created Division E for purposes of nomination and election.
	1976	Acts 1976, No. 43	Increased number of judges in the 15th judicial district from 5 to 6. Created Division F for purposes of nomination and election.

13:621.16	1968	Acts 1968, No. 104	Increased number of judges in the 16th judicial district from 3 to 4. Created Division D for purposes of nomination and election.
13:621.17	1967	Acts 1967, No. 35	Increased number of judges in the 17th judicial district from 3 to 4.
	1968	Acts 1968, No. 307	Decreased number of judges in the 17th judicial district from 4 to 2 upon the creation of the 32nd district. 4 judges plus 1 additional judge served until the regular election of 1972.
	1970	Acts 1970, No. 124	Provided an additional judge to serve in the 17th district until the regular election of 1972, when the additional judgeship would become operative in the 32nd district upon that district's effective creation. Created Division E

			in the 17th district for purposes of nomination and election until 1972.
	1972	Acts 1972, No. 11	Provided that the 17th judicial district have 2 judges.
13:621.18	1968	Acts 1968, No. 86	Increased number of judges in the 18th judicial district from 2 to 3. Created Division C for purposes of nomination and election.
13:621.20	1981	Acts 1981, Ex. Sess, No. 34	Increased number of judges in the 20th judicial district from 1 to 2. Created Divisions A and B for purposes of nomination and election.
13:621.21	1974	Acts 1974, No. 9	Increased number of judges in the 21st judicial district from 3 to 4. Created Division D for purposes of nomination and election.

13:621.22 1970	Acts 1970, No. 23	Increased number of judges in the 22nd judicial district from 2 to 3. Created Division C for purposes of nomination and election.
13:621.23 1968	Acts 1968, No. 464	Increased number of judges in the 23rd judicial district from 2 to 3. Created Division C for purposes of nomination and election.
13:621.24 1968	Acts 1968, No. 78	Increased number of judges in the 24th judicial district from 7 to 9. Created Divisions H and I for purposes of nomination and election.
1968	Acts 1968, No. 674 No. 694	Authorized an additional judgeship for the 24th district upon petition of the Jefferson Parish Police Jury.

1974	Acts 1974, No. 503	Increased number of judges in the 24th judicial district from 9 to 11. Created Divisions J and K for purposes of nomination and election
13:621.25 1964	Acts 1964, No. 314	Increased number of judges in the 25th judicial district from 2 to 3. Created Division C for purposes of nomination and election.
1970	Acts 1970, No. 60	Increased number of judges in the 25th judicial district from 3 to 4. Created Division D for purposes of nomination and election.
13:621.26 1970	Acts 1970, No. 230	Increased number of judges in the 26th judicial district from 2 to 3. Created Division C for purposes of nomination and election. Division C judge to reside in Bossier or Webster.

	1975	Acts 1975, No. 733	Increased number of judges in the 26th judicial district from 3 to 4. Created Division D for purposes of nomination and election. Division D judge to reside in 26th district.
13:621.27	1971	Acts 1971, No. 158	Increased number of judges in the 27th judicial district from 2 to 3. Created Division C for purposes of nomination and election.
13:621.29	1970	Acts 1970, No. 94	Increased number of judges in the 29th judicial district from 2 to 3. Created Division C for purposes of nomination and election.
13:621.30	1972	Acts 1972, No. 11	Increased number of judges in the 30th judicial district from 1 to 2. Created Divisions A and B for purposes of nomination and election.

13:621.32	1968	Acts 1968, No. 307	Provided that the newly created 32nd judicial district have 2 judges.
	1970	Acts 1970, No. 124	Increased number of judges from 2 to 3 by providing an additional judge for the 17th district (Division E), to become a judge for the 32nd district upon its creation in conjunction with the division of the 17th district.
	1974	Acts 1974, No. 84	Increased number of judges in the 32nd judicial district from 3 to 4. Created Division D for purposes of nomination and election.
13:621.33	1968	Acts 1968, No. 694	Provided that the 33rd judicial district have 1 judge.
13:621.39	1979	Acts 1979, No. 635	Provided that the 39th judicial district have 1 judge.

13:1136	1975	Acts 1975, No. 129	Determined that there be one Civil District Court for Orleans Parish, to be composed of ten judges.
	1980	Acts 1980, No. 86	Added subsection E, setting date for elections and for commencement of terms for Civil District Court for Orleans Parish.
13:1137	1975	Acts 1975, No. 62	Determined jurisdiction of Civil District Court for Orleans Parish in relation to district court jurisdiction.
13:1335	1975	Acts 1975, No. 143	Determined that there be one Criminal District Court for Orleans Parish, to be composed of ten judges. Determined date of election and commencement of service.
13:1336	1975	Acts 1975,	Determined jurisdiction of

		No. 144	Orleans Parish Criminal District Court.
13:1346	1972	Acts 1972, No. 236	Created an additional judgeship for the Orleans Parish Criminal District Court.

FAMILY AND JUVENILE COURTS

13:1401	1975	Acts 1975, No. 89	Established the Family Court for the parish of East Baton Rouge; defined jurisdiction.
13:1403	1975	Acts 1975, No. 89	Provided that the Family Court for East Baton Rouge Parish have 1 judge.
13:1564	1975	Acts 1975, No. 152, No. 743	Revised language pertaining to procedures in judge's absence and to qualifications of judges for the Juvenile Court for Caddo Parish; requiring that judges be admitted to bar at

			least five years prior to election.
	1977	Acts 1977, No. 63	Increased number of judges for the Juvenile Court for Caddo Parish from 1 to 2. Created Divisions A and B for purposes of nomination and election. Revised language pertaining to procedures in judge's absence and to qualifications of judges.
13:1595.1	1976	Acts 1976, No. 683	Increased number of judges for Orleans Parish Juvenile Court from 4 to 5. Created Division E for purposes of nomination and election.
13:1596	1972	Acts 1972, No. 265	Increased number of judges for Jefferson Parish Juvenile Court from 1 to 2.

	1980	Acts 1980, No. 442	Increased number of judges for Jefferson Parish Juvenile Court from 2 to 3. Created Division C for purposes of nomination and election.
COURTS OF APPEAL			
13:312	1975	Acts 1975, No. 52	Designated circuits and districts for the Courts of Appeal.
13:312.1	1975	Acts 1975, No. 114	Determined number of judges and judicial election procedure for the Courts of Appeal.
13:312.2	1975	Acts 1975, No. 114	Increased number of 1st circuit judges from 6 to 9, providing that 1 additional judge be elected from each of the 3 1st circuit districts. After initial terms elected for 10-year terms.

13:312	1975	Acts 1975, No. 305	Provided that each district of the various courts of appeal have separate and distinct divisions for purposes of nomination and election. Divisions to be designated alphabetically, with judges presiding over the various divisions on the basis of seniority ranking. Any candidate for nomination or election must designate a division for which he or she is a candidate. New divisions automatically created with the creation of new judgeships. Provided for determination of divisions. Provided that each 1st circuit district have 3 Divisions, A, B, and C, for purposes of nomination and election. Provided for the possibility of electing court of appeals judges at-large from a combination of districts.

* * *

VIOLATIONS

37. The failure to preclear all of the enactments listed in paragraph 23 pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, deprives plaintiffs and all those similarly situated of rights guaranteed by Section 5 of the Voting Rights Act.

* * *

RELIEF

WHEREFORE, plaintiffs pray that this Court set this matter down for an expedited and speedy hearing, and upon such hearing:

Relief under Section 5 of the Voting Rights Act:

a) Convene a District Court composed of three judges, pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, to hear plaintiffs' claims under Section 5, and upon such hearing, declare unenforceable those provisions outlined in paragraph 23 and enjoin all further elections under those provisions until preclearance is obtained.

* * *

b) Grant plaintiffs reasonable attorneys' fees and costs as provided under 42 U.S.C. 1983 and 1988, and such other relief as may be just and equitable.

Respectfully submitted,

/s/ ERNEST L. JOHNSON
PAMELA TAYLOR-JOHNSON
T. RICHARDSON BOBB
Johnson, Taylor & Thomas
5700 Florida Boulevard
Republic Tower Suite 209

Baton Rouge, LA 70806
(504) 929-7676

WILLIAM L. ROBINSON
FRANK R. PARKER
ROBERT B. MCDUFF
SAMUEL ISSACHAROFF
Lawyers' Committee for
Civil Rights Under Law
1400 Eye Street, N.W. #400
Washington, DC 20005
(202) 371-1212

ULYSSES GENE THIBODEAUX
1925 Enterprise Boulevard
Lake Charles, LA 70601
(318) 439-1060

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

----------x

JANICE G. CLARK, et al.

Plaintiffs, CIVIL ACTION
NO. 86-435
vs. SEC. A

EDWIN W. EDWARDS, GOVERNOR
OF LOUISIANA; et al.

Defendants.

----------x

MOTION FOR PRELIMINARY AND PERMANENT INJUNCTION UNDER SECTION 5 OF THE VOTING RIGHTS ACT TO PREVENT THE OCTOBER 1, 1988 ELECTION FOR UNPRECLEARED JUDGESHIPS

[Filed, July 28, 1988]

COME NOW the plaintiffs and move for a preliminary and permanent injunction pursuant to Section 5 of the Voting Rights Act to prevent the scheduled October 1, 1988 primary elections for Division C of the 22nd Judicial District

Court, for the newly created at-large judgeship on the Second Circuit Court of Appeal, and for Divisions C of the First, Second, and Third District of the Third Circuit Court of Appeal, on the ground that the legislation establishing these judgeships has never been precleared as required by Section 5 of the Voting Rights Act, 42 U.S.C. Section 1973c. In addition, and in the event only one candidate qualifies for any of these judgeships (thereby allowing that candidate to be designated the winner of the judgeship under state law), the plaintiffs move for a preliminary and permanent injunction preventing the defendants from taking any action to certify or otherwise install any candidate as a judge in any of these unprecleared judgeships.

In support of this motion, the plaintiffs would show the following:

1. Division C of the 26th Judicial District court was established in 1970 by the Louisiana legislature. Acts 1970, No. 23. That legislation increased the number of judges in the multimember 22nd district from two to three.

2. In 1987, the Louisiana legislature created a new judgeship to be elected at-large from the Second Circuit Court of Appeal, and the following three new judgeships for the Third Circuit Court of Appeal: Third Circuit, District 1 (Division C); Third Circuit, District 2 (Division C); and Third Circuit, District 3 (Division C). Acts 1987, No. 801. Acts 1987, No. 801 also provides that elections for these newly created judgeships are to be held in the fall of

1988, with the winners to take office January 1, 1989.

3. A special election to fill a vacancy in Division C of the 22nd Judicial District, and regular elections to fill the newly created judgeships described in paragraph 2 above, are set for an October 1, 1988 primary, with the runoff election scheduled November 8, 1988. The candidate qualifying period for all of these judgeships is July 27-29, 1988.

4. Acts 1970, No. 23, and Acts 1987, No. 801 have never been precleared by the Attorney General of the United States or the United States District Court for the District of Columbia pursuant to Section 5 of the Voting Rights Act.

5. Any voting changes such as those made by Act 23 of 1975, and Act 801 of 1987 are not enforceable without preclearance. Accordingly, this Court should grant a preliminary injunction to prevent their enforcement and the October 1, 1988 election unless and until preclearance is obtained.

6. Louisiana law provides that, in the event only one candidate qualifies for a judicial election, that candidate shall be declared the winner. In the event only one candidate qualifies for any of the judgeships listed in this motion, the plaintiffs move for a preliminary or permanent injunction prohibiting the defendants from certifying or commissioning that candidate as a judge or taking any other steps to install that candidate as a judge.

Respectfully submitted

/s/ Ernest L. Johnson
ERNEST L. JOHNSON
PAMELA TAYLOR-JOHNSON
T. RICHARDSON BOBB
Johnson, Taylor & Thomas
5700 Florida Boulevard
Republic Tower Suite 209
Baton Rouge, LA 70806
(504) 929-7676

/s/ Robert B. McDuff
WILLIAM L. ROBINSON
FRANK R. PARKER
ROBERT B. MCDUFF
Lawyers' Committee for
Civil Rights Under Law
1400 Eye Street, N.W.,
#400
Washington, D.C. 20005
(202) 371-1212

ULYSSES GENE THIBODEAUX
1925 Enterprise Boulevard
Lake Charles, LA 70601
(318) 439-1060

[Certificate omitted in printing]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

----------x
JANICE G. CLARK, et al.

vs. CIVIL ACTION
NO. 86-435
SEC. A

CHARLES "BUDDY" ROEMER,
GOVERNOR OF LOUISIANA; et al.
----------x

PLAINTIFFS' MOTION TO THE THREE-JUDGE COURT TO ENJOIN AT-LARGE ELECTIONS FOR CERTAIN UNPRECLEARED JUDGESHIPS

[Filed July 23, 1990]

Come now the plaintiffs and move this Three-Judge Court for a preliminary and permanent injunction to prevent the use of the present at-large election format for certain state district court and court of appeal judgeships for which preclearance has not been obtained under Section 5 of the Voting Rights Act, 42 U.S.C. Section 1973c, and to prevent the

certification or installation of any candidate who attains one of those judgeships so long as the unprecleared at-large system is in place. Those judgeships are listed later in this motion.

In support of this motion, the plaintiffs show the following:

1. Over the years, officials of the State of Louisiana have failed to submit for preclearance under Section 5 of the Voting Rights Act a number of electoral changes regarding state district court and court of appeal judgeships, particularly the creation of new judgeships to be elected at-large within pre-existing judicial districts. Despite the absence of preclearance, the State nevertheless implemented most of the changes and filled the judgeships

through election. The complaint in this case included a Section 5 challenge to the failure to obtain preclearance of these electoral changes.

2. After the complaint was filed, state officials submitted many of the unprecleared changes to the United States Attorney General for preclearance. However, on September 23, 1988, the Department of Justice refused preclearance to a number of these changes because they would, in the words of the Department's objection letter, be implemented "in the context of a racially discriminatory election method." Letter of September 23, 1988 from United States Assistant Attorney General William Bradford Reynolds to Kenneth C. DeJean of the Louisiana Attorney General's office at p. 2. (A copy of the letter is

attached as an exhibit to this motion). The racially discriminatory election method to which the letter referred is the existing at-large election method. Id. at 1-2. Also, on May 12, 1989, the Department of Justice denied preclearance to some additional changes for the same reasons. Letter of May 12, 1989 from Acting United States Assistant Attorney General James P. Turner to Kenneth C. DeJean. (A copy is attached as an exhibit to this motion).

3. In light of the state's failure to obtain preclearance, this Three-Judge Court issued orders dated August 26, 1988, and September 27, 1988, that enjoined the then-impendent elections for unprecleared judgeships in the Second Circuit Court of Appeal (at-large), and the Third Circuit Court of Appeal,

District 1 (Division C), District 2 (Division C), and District 3 (Division C), all of which had been created by Act 801 of 1987.

4. The Justice Department's September 23, 1988 and May 12, 1989 objection letters cited the August, 1988 findings of the Hon. John V. Parker, sitting as a single judge in the portion of this case litigated under Section 2 of the Voting Rights Act, wherein Judge Parker concluded that Section 2 violations exist as a result of at-large elections in a number of district court and court of appeals judgeships in the state. See Clark v. Edwards, 725 F. Supp. 285 (M.D. La. 1988). Most, but not all, of the Justice Department's objections involved unprecleared judgeships in the districts where Judge

Parker found a Section 2 violation. Since that time, in an order dated June 12, 1990, Judge Parker modified his holding, and narrowed the number of districts in which he found Section 2 violations to a total of eleven. Accordingly, state officials have now asked the Department of Justice to reconsider its objections, and to grant preclearance to all judgeships in those districts where Judge Parker originally found a violation but later changed his finding and concluded that no violation exists. As of the writing of this motion, the Justice Department has not taken any action, and the Section 5 objections are still in place.

5. The State's letters to the Department of Justice requesting reconsideration are dated June 18 and

June 20, 1990. The Department of Justice normally takes sixty days to process preclearance requests, including requests for reconsideration, and a decision on the State's request in this instance is expected on or around August 20, 1990. It is possible the Justice Department will reconsider its objections and preclear all of the judgeships that are the subject of this motion. However, in the event preclearance is not forthcoming, the plaintiffs are filing this motion to prevent any elections for unprecleared judgeships under the existing at-large election format.

6. Judge Parker has in place an injunction preventing elections in any of the eleven districts in which he found a Section 2 violation. They are the first, fourth, ninth, fourteenth, fifteenth,

eighteenth, nineteenth, twenty-fourth, and fortieth district court districts; the first circuit, district 2 of the court of appeal; and the East Baton Rouge family court. In addition, Judge Parker's June 12 opinion mandates the implementation of electoral subdistricts within those eleven districts as a remedy for the Section 2 violation. Given that Judge Parker's injunction and the remedy he has ordered provide all of the relief to which plaintiffs are entitled in those districts under Section 2 or Section 5, the plaintiffs are not including any of the judgeships in those districts in this request for relief under Section 5.

7. The unprecleared judgeships for which the plaintiffs seek to enjoin any further at-large election under Section 5 include the following, all of which were

the subject of the Justice Department's September 23, 1988 and May 12, 1989 objection letters:

District Court

District	Division	Statute
6	B	Act 515 (1974)
16	D	Act 104 (1968)
	G	Act 56 (1984)
20	B	Act 34 (1981)
21	D	Act 9 (1974)
	F	Act 56 (1984)
23	C	Act 464 (1968)
27	C	Act 158 (1971)
29	C	Act 94 (1970)
Orleans Criminal	Magistrate's Position	Act 236 (1972)
Orleans Criminal	F,G,H, I,J	Act 143 (1975)

Orleans Civil	F,G,H, I,J	Act 235 (1970) (Div. J) Act 129 (1975) (all 5 judgeships)

Courts of Appeal

First Circuit, District 3	C	Act 114 (1975)
Second Circuit	At-Large	Act 114 (1975)
	At-Large	Act 801 (1987)*
Third Circuit	At-Large	Act 114 (1975)
Third Circuit District 1	C	Act 801 (1987)*
Third Circuit District 2	C	Act 801 (1987)*
Third Circuit District 3	C	Act 801 (1987)

All of the foregoing judgeships except those with an asterisk were filled by election even absent preclearance and most, if not all, are currently occupied by sitting judges. Those with an asterisk were enjoined prior to the initial election, and are vacant.

8. In addition, the plaintiffs seek to enjoin elections for the following judgeships:

** All judgeships in the 10th and 39th judicial districts inasmuch as the Department of Justice has objected to Act 635 (1979), which split the former 10th judicial district, creating two districts -- the new 10th composed of Natchitoches Parish and the new 39th composed of Red River Parish.

** All judgeships in the First Circuit, Districts 1 and 3 inasmuch as the Department of Justice has objected to Act 305 (1975), which adopted designated posts (divisions) for all judgeships in those districts. (The plaintiffs do

not seek this relief under Section 5 with respect to the First Circuit, District 2, since sufficient relief already is being granted in the Section 5 with respect to the First Circuit, District 2, since sufficient relief already is being granted in the Section 2 component of this litigation).

Elections for all of the judgeships listed in this paragraph were held despite the absence of preclearance and most, if not all, are currently filled by sitting judges.

9. Also, the plaintiffs seek to enjoin elections for the following judgeships that have recently been created by the Louisiana legislature, but have yet to be either precleared or denied preclearance by the Department of Justice, and which have yet to be filled by election:

District Courts

District	Division	Act
22	G	Act 8 (1990)
26	E	Act 174 (1989)
Orleans Civil	M, N	Act 8 (1990)

Courts of Appeal

Second Circuit, District 1	C	Act 8 (1990)

(Note: Act 8 of 1990 took the unprecleared at-large Second Circuit judgeship original created by Act 801 of 1987 and allotted it to Division C of District 1 of the Second Circuit).

Second Circuit, District 3	C	Act 8 (1990)

10. As previously noted, State officials have asked for reconsideration of the Justice Department's Section 5 objections, and also for preclearance of other recently enacted judgeships, and the Justice Department's response is expected in late August of this year. In the event the Justice Department does not reverse the prior objections, and leaves some or all of the electoral law changes unprecleared, the plaintiffs will move the Court for any additional relief necessary to cure the discriminatory election features that led to the Section 5 objections and to remedy fully the Section 5 violations.

In light of the foregoing, and absent any preclearance by the United States Attorney General, an injunction should issue preventing the use of the

present at-large election format for the judgeships listed in paragraphs 7-9 above, and preventing the certification or installation of any candidate elected to any of those judgeships under the present at-large format. A proposed memorandum of law and proposed order accompany this motion.

Respectfully submitted,

/s/ Robert B. McDuff
ROBERT B. MCDUFF
Lawyers' Committee for
Civil Rights Under Law
1400 Eye Street, N.W. #400
Washington, DC 20005
(202) 371-1212

/s/ Ernest L. Johnson
ERNEST L. JOHNSON
T. RICHARDSON BOBB
Johnson, Taylor & Thomas
5700 Florida Boulevard
Republic Tower Suite 209
Baton Rouge, LA 70806
(504) 929-7676

ULYSSES GENE THIBODEAUX
1925 Enterprise Boulevard
Lake Charles, LA 70601
(318) 439-1060

Counsel for Plaintiffs

[Certificate and Attachments
omitted in printing]

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT

STATE OF LOUISIANA

JANICE G. CLARK, ORSCINI L. BEARD, EDDIE G. CRAWFORD, NORBERT C. RAYFORD, VOTER INFORMATION PROJECT, INC., LOUIS SCOTT, SYLVIA COOK, CONNIE SADLER, TOM NELSON AND ALBERT RICHARD	:	CIVIL ACTION NO. 86-435 SEC. A
Plaintiffs,	:	
versus	:	
CHARLES "BUDDY" ROEMER, GOVERNOR OF LOUISIANA; WILLIAM J. GUSTE, JR., ATTORNEY GENERAL OF LOUISIANA; FOX McKEITHEN, SECRETARY OF STATE OF THE STATE OF LOUISIANA, IN THEIR OFFICIAL CAPACITIES AS REPRESENTATIVES OF THE STATE OF LOUISIANA	:	THREE JUDGE COURT CONSISTING OF CIRCUIT JUDGE W. EUGENE DAVIS JUDGE JOHN V. PARKER CHIEF JUDGE FRANK J. POLOZOLA
Defendants.	:	

OPPOSITION TO PLAINTIFFS' MOTION AND ITS FIRST AND SECOND SUPPLEMENTATION

[Filed September 27, 1990]

For the reasons as more specifically set forth in the attached Memorandum, Plaintiffs' Motion and Its First and Second Supplementation should be denied.

/s/ Robert G. Pugh
ROBERT G. PUGH
LA Bar Roll No. 10897

/s/ Robert G. Pugh, Jr.
ROBERT G. PUGH, JR.
LA Bar Roll No. 10896

Of the Law Firm of
PUGH and PUGH
Commercial National Tower
Suite 2100
333 Texas Street
Shreveport, LA 71101-5302
(318) 227-2270

JOHN N. KENNEDY
LA. Bar Roll No. 7782
Special Counsel to the Governor
Office of the Governor
Fourth Floor
State Capitol Building
Baton Rouge, LA 70804
(504) 342-7015

ATTORNEYS FOR
CHARLES "BUDDY" ROEMER
GOVERNOR OF LOUISIANA

MICHAEL H. RUBIN
LA. Bar Roll No. 10833
RUBIN, CURRY, COLVIN & JOSEPH
A Professional Law Corporation
Suite 1400,
One American Place
Baton Rouge, LA 70825
(504) 383-1400

ATTORNEYS FOR THE
LOUISIANA DISTRICT JUDGES
ASSOCIATION

a:\opposition

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT

STATE OF LOUISIANA

JANICE G. CLARK, ORSCINI L. BEARD, EDDIE G. CRAWFORD, NORBERT C. RAYFORD, VOTER INFORMATION PROJECT, INC., LOUIS SCOTT, SYLVIA COOK, CONNIE SADLER, TOM NELSON AND ALBERT RICHARD	:	CIVIL ACTION NO. 86-435 SEC. A
Plaintiffs,	:	
versus	:	
CHARLES "BUDDY" ROEMER, GOVERNOR OF LOUISIANA; WILLIAM J. GUSTE, JR., ATTORNEY GENERAL OF LOUISIANA; FOX McKEITHEN, SECRETARY OF STATE OF THE STATE OF LOUISIANA, IN THEIR OFFICIAL CAPACITIES AS REPRESENTATIVES OF THE STATE OF LOUISIANA	:	THREE JUDGE COURT CONSISTING OF CIRCUIT JUDGE W. EUGENE DAVIS JUDGE JOHN V. PARKER CHIEF JUDGE FRANK J. POLOZOLA
Defendants.	:	

MEMORANDUM IN SUPPORT OF OPPOSITION TO PLAINTIFFS' MOTION AND ITS FIRST AND SECOND SUPPLEMENTATION

[Filed september 27, 1990]

Simply put, the question presented by these proceedings, is: **Does the Justice Department which lies within the Executive Branch of Government, have the authority to second guess and thereby overrule another branch of government, the Judiciary?**

Plaintiffs, as surrogate for, and in relying on the conclusions reached by, the Justice Department now, on the eve of an election, seek to set aside, as for naught, most of what has been judicially resolved after four years of intense litigation.

Chief Judge Parker has devised a remedy in this proceeding which follows the dictates of the Fifth Circuit that

there be specific, detailed findings of fact in vote dilution cases encompassing, while doing so, all of the districts involved in the judicial selection system for district, family court and courts of appeal judges.

This case has taken into consideration each of the applicable statutory provisions of the Louisiana law concerning judgeship districts through those enacted in 1988. Timing did not permit an examination of the judicial districts created in 1989 and 1990.

Judge Parker's analysis of these districts is contained in his Findings of Fact and Conclusions of Law Remedy Phase as follows:

> JDC District 6 at page 6; JDC District 10 at page 21; JDC District 16 at pages 25-26; JDC District 20 at pages 28-29; JDC District 21 at pages 29-30; JDC District 23 at pages 30-35; JDC District 27 at pages 33-34; and JDC District 29 at page 34.

Additionally, Chief Judge Parker specifically held that as to all of the Courts of Appeal, circuitwide, there was no statutory violation [page 39], further, except for the First Circuit, District 2, Chief Judge Parker found no statutory violation in any of the Courts of Appeal districts [pages 40-43].

In fashioning a remedy, Chief Judge Parker recalled and recast his earlier beliefs that he was empowered to adopt a systematic remedy [page 44-45] and also adhered to the federal jurisprudence that there should not be intrusion on state policy any more than necessary [page 45]. There followed a detailed examination of the Louisiana law as set forth in Louisiana's Election Code, L.R.S. § 18, [pages 43-45] the entire provisions of

which have been precleared by the Justice Department.

Judge Parker's plan, as reflected in the Court's Findings of Fact and Conclusions of Law Remedy Phase, is two-fold[1/]:

> (1) There are no violations in the following judicial districts which would require changes: 2nd, 3rd, 5th, 6th, 7th, 8th, 10th, 11th, 12th, 13th, 16th, 17th, 20th, 21st, 22nd [except Div. C], 23rd, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, Orleans Civil District Court, and Orleans Criminal District Court; and the following Courts of Appeal: Courts of Appeal Circuitwide, First Circuit [except District 2], Second Circuit, Third Circuit, Fourth Circuit and Fifth Circuit; and

> (2) There are violations in the following judicial districts: 1st, 4th, 9th, 14th, 15th, 18th, 19th, 24th, 40th, Family Court East Baton Rouge, and the First Circuit Court of Appeal District 2. As to each of these, subdistricts are to be drawn by a concurrence of the parties or in default thereof by the Court.

There having been formulated a judicially adopted plan, the question remains what need, if any, is there for preclearance? Both the Fifth Circuit and the Supreme Court have addressed this question.

> It must be noted that this is not a case in which a legislature, board, or commission attempted to reapportion itself. In such a case, Section 5 clearly applies. What we have here is an adversary action, invoking the equity jurisdiction and the equitable adjudication of the District Court. As the Supreme Court succinctly said in Connor v. Johnson, 402 U.S. 690, 91 S.Ct. 1760, 29 L.Ed.2d 268, and as this Court said in Sheffield v. Itawamba

> County Board of Supervisors, 5 Cir., 1971, 439 F.2d 35, court ordered plans resulting from equitable jurisdiction over adversary proceedings are not controlled by Section 5. If this were not so, the exercise of jurisdiction by the courts would be meaningless. The Attorney General has no authority to review or to set aside the judgments of courts duly entered in the exercise of their jurisdiction over the parties and the subject matter.

Zimmer v. McKeithen, 467 F.2d 1381, 1383 (5th Cir. 1972). There was a rehearing as to this panel decision in the Zimmer case, where the holding in the foregoing quotation was reiterated:

> 9. Marshall [one of the parties litigant] contended that the rule of Connor v. Johnson, 402 U.S. 690, 91 S.Ct. 1760, 29 L.Ed.2d 268 (1971) and Sheffield v. Itawamba County Board of Supervisors, 439 F.2d 35 (5th Cir. 1971) that court ordered plans resulting from equitable jurisdiction over adversary proceedings are not controlled by Section 5 is inapposite where such plans are adopted by a court in "sweetheart" lawsuits. Although there may be merit in his contention that the failure to qualify Connor

> and Sheffield may result in the circumvention of the Voting Rights Act, we would merely note that the dilution standard is a viable means of reconciling the disparate treatment of governmental body approved plans and court approved plans under Section 5. Furthermore, since Section 5, 42 U.S.C. 1973c (1970), covers attempts to administer voting practices as well as attempts to enact them, see Roman, herein on the internal inconsistences evidenced in the position emanating from the Justice Department.

The first, and perhaps most glaring, inconsistency in the Justice Department's approach is evidenced by its failure to follow its own self-imposed regulations. 28 CFR Ch. 1 (7-1-89 Edition) § 5.56. This regulation provides that:

> § 5.56 Guidance from the courts.
>
> In making determinations the Attorney General will be guided by the relevant decisions of the Supreme Court of the United States and of other Federal Courts.

It may have been self evidently imposed but it was self obviously ignored. At

every turn possible, the Justice Department ignored Chief Judge Parker's findings.

The second, and perhaps most obvious, conflict in the Justice Department's fulfillment of its statutorily imposed duties relates to the inconsistencies readily apparent as to the judgeships in Orleans created by Act 8 of 1990. Its letter, dated September 17, 1990, addressed to Cynthia Y. Rougeau, Esq., without elaboration simply says "[w]ith regard to the changes under Act 8 (1990) for the Orleans Parish Civil District Court, the Attorney General does not interpose any objections to the changes in question." Meanwhile, concomitantly therewith the Justice Department strikes at the creation of the other judicial sections

in the same Act, namely, i.e. in the Second Circuit Courts of Appeal and the new judgeship in Division G in the 22nd Judicial District. Significantly all of these judicial positions were created in the same Act which underwent the same legislative process as its enactment. In its evaluation letters as to this Act, the Justice Department insists that only judicial races in which black candidates participate are to be evaluated. (See letter from U.S. Department of Justice to Cynthia Young Rougeau, Esquire, dated August 20, 1990, paragraph 2.) This simply isn't the law. This matter was addressed in the case of Sanchez v. Bond, 875 F.2d 1488 (10th Cir. 1989):

> The *Gingles* opinion offers little guidance on what significance the race of the candidates is to be given in assessing a 2 claim. In *Gingles, the district court found that black voters had been denied*

equal opportunity to elect candidates of their preference. In reaching this finding, the district court considered only elections that pitted black candidates against white candidates. The Supreme Court affirmed but was divided on the importance of the race of the minority group's candidate. Four justices were of the view that "the race of the candidate per se is irrelevant to racial bloc voting analysis." Id. at 67, 106 S.Ct.at 1775. Under this view, only the *status* of the candidate as the chosen representative of a racial group is important. Id. A total of five justices, however, felt that such a hard and fast rule was contrary to precedent and was not necessary to the disposition of the case. Id. at 83, 101, 106 S.Ct. at 2784, 2793. This division on the Supreme Court prompted a difference of opinion among the circuit courts as well. At least one circuit has adopted Justice Brennan's view that the race of the candidate is irrelevant to voting analysis. *See Carrollton Branch of NAACP v. Stallings*, 829 F.2d 1547, 1557-58 (11th Cir. 1987). In contrast, two Fifth Circuit cases have interpreted *Gingles* to mean that "the race of the candidate is in general of less significance than the race of the voter--but only within the context of an election that offers voters the choice of supporting a viable minority candidate." *Campos v. City*

of Baytown, Texas, 840 F.2d 1240, 1245 (5th Cir. 1988), petition for cert. filed, (citing *Citizens For a Better Gretna v. City of Gretna*, La., 834 F.2d 496 (5th Cir. 1987), *rehearing denied* 849 F.2d 1471, petition for cert. filed. These cases suggest that the court should exclude from its analysis elections that do not include a candidate who is a minority. *Gretna*, 834 F.2d at 504 ("[I]mplicit in the *Gingles* holding is the notion that black preference is determined from elections which offer the choice of a black candidate.") *But see Overton v. City of Austin*, 871 F.2d 529 (5th Cir. 1989) ("In the absence of further Supreme Court guidance, we do not criticize this methodology, although it is not the only permissible way to approach 2 claims.")

We do not believe that a per se rule against examining races that have only white candidates is implicit in *Gingles*. Such a rule would be clearly contrary to the plurality opinion, which views the race of the candidates as irrelevant in voting analysis. Moreover, such a rule is questionable in light of the language of 2, which seeks to give minorities equal opportunity to "elect representatives *of their choice*." 42 U.S.C. § 1973(b). Nothing in the statute indicates that the chosen representative of a minority group must be a minority.

Additionally, § 2 requires that the district court make a determination from the totality of the circumstances. Accordingly, we conclude that there is no rule of law prohibiting the district court from examining those elections having only Anglo candidates. Such elections may be relevant and can be used to discern whether racially polarized voting exists and to measure the success of minority preferred candidates, so long as one of the Anglo candidates can be considered a preferred candidate of the minority group. As with other types of relevant evidence, the district court has a right to consider these elections and to give them such weight as the circumstances warrant. Based on the facts of this case, we cannot conclude that the district court erred in considering races having only Anglo candidates.

Id. at 1494-95.

Thirdly, the Justice Department wishes to impose upon Louisiana a limited voting scheme, a concept which Chief Judge Parker soundly rejected.

> As an alternative to the drawing of subdistricts, about which this court has voiced reservations from the beginning of the case,

plaintiffs have proposed the institution of a system of limited voting. This proposal is offered as a counter to the other side's suggestion of plurality voting. This system was described by Dr. Engstrom and essentially would limit the number of votes to be cast by each elector in multimember districts to some number less than the number of positions to be filled. The theory is that the minority in such an election can overcome the effects of majority vote dilution by putting their strength behind a particular candidate. The limited number of votes make it less likely that the majority will be able to determine the winners of all positions, thus eliminating the "winner-take-all" effect. This proposal would require elimination of Louisiana's majority vote requirement and would require all candidates to run, without designation by division, in a pool. Elections would be required at the conclusion of every term since all candidates would qualify for the same office and the top vote getters would fill the available positions.

This court declines to accept limited voting for several reasons. First, it makes more changes in Louisiana's chosen election system than required. At present, a competent judge frequently has no opposition for his reelection and no election is held, rewarding the

> judge for his service and saving the cost of an election. Under limited voting, an election would be necessary unless, for example, there were four positions to be filled and only four people qualified. The majority vote requirement has already been mentioned. Second, this court finds if (sic) difficult to comprehend how we expand access to the ballot box by limiting the number of votes each elector may cast.

Findings of Fact and Conclusions of Law, pages 51-52.

The majority vote requirement has, as indicated, already been addressed by Chief Judge Parker. Although in its objections the Justice Department suggested that Louisiana should abandon its majority vote requirement, Chief Judge Parker has refused to impose such a remedy for it would be radical departure from Louisiana's electoral process. Of course, this is the same process which the Justice Department approved regarding

a majority vote in judicial elections when the Justice Department precleared the Election Code. As Chief Judge Parker found in his Findings of Fact and Conclusions of Law:

> Title 18, the Election Code, also contains numerous provisions relating to election of judicial officers. Sections 511 and 512 are the only pertinent provisions and they deal with the election of candidates in primary and general elections: both sections require a majority vote.
>
> This court concludes that Louisiana's constitutional and statutory policies demonstrate a strong preference for popular election of judicial officers by majority vote.

P.48.

Further inconsistencies of the Justice Department exist as to many of the Acts here. To cite a few:

In Civil District Court, District 10, [hereafter "CDC ___"] after approving

a special election for a judge in CDC 39, 12 years later the Justice Department objected to the boundaries which, incidentally, were set forth in the Special Election Act already approved.

In CDC 16, after approving and preclearing judgeships for "E" and "F" division, created in 1977, the Justice Department objected 13 years later to a judgeship for "D".

In CDC 21, after approving and preclearing a judgeship for Division "E", 16 years later, the Justice Department objected to a judgeship created for Division "D".

In CDC 23, after preclearing a judgeship for Division "D", the Justice Department objected to the creation of a judgeship for Division "C" created 22 years earlier.

In CDC 27, after preclearing a judgeship for Division "D", the Justice Department reached back 19 years to object to a judgeship for Division "C".

In CDC 29, after preclearing a judgeship for Divisions "D" and "E", the Justice Department reached back 20 years to object to a judgeship for Division "C".

In CDC 39, after approving the Special Election for a judge, the Justice Department, 11 years later, objected to the boundaries within which this judge was to sit.

After preclearing Act 3 of 1981 concerning the First Circuit Court of Appeals' designated division, the Justice Department objected 15 years later to an Act to create District 3C.

Again, <u>after</u> preclearing Act 3 of 1981 clearing the First Circuit Court of Appeals' designated divisions the Justice Department objected, 15 years later, to the First Circuit's District 1C. In the case of the First Circuit, the movants base their lack of preclearance claims on failure to submit to the Justice Department Act 114 of 1975 (creating new judgeships) and Act 305 of 1975 (designation of divisions for the First Circuit). By Acts 1981, No. 3 three judgeships for the First Circuit were created, one to be elected at-large from each of the three election districts. In addition, Acts 1981, No. 3 provided for election by designated divisions and for election at-large within the election district. By letter of July 29, 1981, Acts 1981, No. 3 was submitted to the

U.S. Justice Department. The letter stated that in regard to the First Circuit, there would be 12 judges, 4 elected from each election district, and the alphabetical division would be retained. By letter of August 26, 1981, the U.S. Justice Department precleared Acts 1981, No. 3. There have been no new judgeships added to the First Circuit since Acts 1981, No. 3. There have been no changes in the boundaries of any of the three election districts. Accordingly, all of the 12 judgeships of the First Circuit have been precleared by the letter from the U.S Justice Department dated August 26, 1981. None of the judgeships in the First Circuit should be subject to Section 5 objection. The same is equally true for the remaining Circuit Courts of Appeal, the

Second, Third, Fourth and Fifth. Except for the 1987 and 1990 Legislation there has been no change in judgeships or boundaries, since all were specifically precleared by Acts 1981, No. 3.

Apparently the Justice Department merely pushed a typewriter/word processor for its conclusions without regard to the resulting text. In its letter of September 17, 1990, totally relied upon by movants, the Justice Department refers to nonexistent judicial citations. For instance:

> [I]t is insufficient simply to establish that there are some legitimate, nondiscriminatory reasons for the voting change. See . . . . City of Rome, supra, at 172; Busbee v. Smith, 549 F.Supp. 494, 516-17 (D.D.C. 1982), aff'd, 459 U.S. 1166 (1983).

with a citation to City of Rome, supra, at 172. However, one looks in vain for

the supra citation. Apparently the Justice Department created its objection letters on the cut and paste approach.

Movants failed to prevail before the court and now wish to impose objections to legislative acts so old that many could qualify for a legally dead status if they were but human beings. Further, in its second supplemental motion movants state:

> Judges Holding Office In Unprecleared Judgeships
>
> The most immediate subject to the court's attention is the enjoining of elections for unprecleared judgeships. Once that matter is resolved, an issue will remain regarding the status of those judges holding office in unprecleared judgeships. The plaintiffs intend shortly to file a motion to declare those judgeships vacant at the end of their terms or, alternatively, to set a scheduled time by which the judgeships will be declared vacant in the event the State does not come up with an acceptable plan for election of

those judgeships that complies with the Voting Rights Act.

It thus appears that movants intend to continue the employment of § 5 of the Act as another weapon in their arsenal of litigation strategies.

All that injunctions do is to prevent the peoples of the State of Louisiana from electing candidates of <u>their</u> choice in whom they wish to determine matters of liberty and property. Totally lost sight of is the provision concerning these people whose rights would be denied, impaired and otherwise adversely affected. This Congress considered when it provided in 42 § 1973n:

> 42 § 1973n. Impairment of voting rights of persons holding current registration
>
> Nothing in subchapters I-A to I-C of this chapter shall be

> construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State of political subdivision.

All of the above and foregoing is thus respectfully submitted.

/s/ Robert G. Pugh
ROBERT G. PUGH
LA Bar Roll No. 10897

/s/ Robert G. Pugh, Jr.
ROBERT G. PUGH, JR.
LA Bar Roll No. 10896
Of the Law Firm of PUGH and PUGH
Commercial National Tower
Suite 2100
333 Texas Street
Shreveport, LA 71101-5302
(318) 227-2270

JOHN N. KENNEDY
LA. Bar Roll No. 7782
Special Counsel to the Governor
Office of the Governor
Fourth Floor
State Capitol Building
Baton Rouge, Louisiana 70804
(504) 342-7015

ATTORNEYS FOR CHARLES "BUDDY" ROEMER
GOVERNOR OF LOUISIANA

MICHAEL H. RUBIN
LA. Bar Roll No. 10833
RUBIN, CURRY, COLVIN & JOSEPH
A Professional Law Corporation
Suite 1400, One American Place
Baton Rouge, Louisiana 70825
(504) 383-1400

ATTORNEYS FOR THE LOUISIANA
DISTRICT JUDGES ASSOCIATION

[Attached chart and certificate omitted in printing]

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

----------x

JANICE G. CLARK, et al.

Plaintiffs,

vs. CIVIL ACTION NO. 86-435-A

CHARLES "BUDDY" ROEMER, GOVERNOR OF LOUISIANA; et al.

Defendants.

----------x

MOTION TO THE THREE-JUDGE COURT TO ENJOIN UNPRECLEARED ELECTIONS IN DISTRICTS 1, 4, 9, 14, 15, 18, 24, 40, AND THE FIRST CIRCUIT, DISTRICT TWO

[Filed October 1, 1990]

The plaintiffs move to enjoin qualification and election for the following judgeships which have not been precleared under Section 5 of the Voting Rights Act (and which previously were the subject of a Section 2 injunction in this case):

DISTRICT	DIVISION
1	F
4	D,F,G
9	D,E
14	E,F,G,H
15	E,F,G,H
18	C
24	H,I,J,K,P
40	C

First Circuit,
District Two

Respectfully Submitted,

/s/ Robert B. McDuff
ROBERT B. MCDUFF
Lawyers' Committee for
Civil Rights Under Law
1400 Eye Street, N.W.,
#400
Washington, D.C. 20005
(202) 371-1212

/s/ Ernest L. Johnson
ERNEST L. JOHNSON
T. RICHARDSON BOBB
JOHNSON, TAYLOR & THOMAS
5700 Florida Boulevard
Republic Tower Suite 209
Baton Rouge, La. 70806
(504) 929-7676

ULYSSES GENE THIBODEAUX
1925 Enterprise Boulevard
Lake Charles, LA 70601
(318) 439-1060

Counsel for Plaintiffs

[certificate omitted in printing]

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
OCTOBER 2, 1990
PARKER, C. J.

JANICE CLARK, ET AL.
CIVIL ACTION
No. 86-435-A
VERSUS

CHARLES "BUDDY" ROEMER, ET AL.

This cause came on this day for oral argument on defendants' motion to dissolve pending injunction.

PRESENT: Ernest Johnson, Esq.
Counsel for plaintiffs

Michael Rubin, Esq.
Counsel for LDJA

Roy Mongrue, Esq.
Counsel for State of Louisiana

Cynthia Rougeou, Esq.
Counsel for Secretary of State

John Kennedy, Esq.
Counsel for Governor

Roemer

Fred Cassibry, Esq.
Jan T. van Loon, Esq.
Counsel for 24th Judicial District Judges

Counsel present their arguments to the court.

Sylvia Cooks, Eddie Crawford and Janice Clark are sworn and testify for plaintiffs.

Plaintiffs rest.

Edward C. Gaudin, Douglas Gonzales and Charles Scott are sworn and testify for defendants.

Defendants rest.

For the reasons read into the record, defendants' motion to dissolve injunction is hereby GRANTED and qualification for the office(s) of judge in those districts shall occur on Wednesday, October 3rd, 1990, Thursday, October 4th, 1990 and

Friday, October 5th, 1990, with the primary election to occur on November 6, 1990 and a runoff election, if necessary, to be held on December 8, 1990.

The court may file written reasons as it deems necessary.

* * * * *

/s/ John V. Parker

RUBIN, CURRY, COLVIN & JOSEPH
A PROFESSIONAL LAW CORPORATION

October 2, 1990

VIA HAND DELIVERY
Honorable John V. Parker, Judge
Honorable Frank J. Polozola, Judge
Federal Courthouse
Baton Rouge, Louisiana

RE: Clark v. Roemer
C.A. 86-435(A)
Three Judge Court
Our File Number: 5998

Dear Judge Parker and Judge Polozola:

Enclosed is the order you asked us to prepare concerning the elections in the 1st, 4th, 9th, 14th, 15th, 18th, 24th, and 40th Judicial Districts and in the First Circuit, District 2, Division C.

In looking at the statute, R.S. 13:312.2, the First Circuit seat started in January 1, 1985. Since the term lasts for ten years, it will not expire until 1994. Since the term will not expire

until 1994, I have taken the liberty of presuming that the Court would not allow qualification for a position that will not open up until 1994; therefore, a separate part of the order addresses this position and enjoins both qualifications and elections. I trust that this meets with the intentions of the Court.

Sincerely,

/s/ Michael H. Rubin
Michael H. Rubin

cc. via FAX to: Ernest Johnson
Robert McDuff
John Kennedy
Roy Mongrue
Cindy Rougeau
Robert Pugh

MHR/ccw

[attachment omitted in printing]

[Exhibit D-1, 9/28/90 hearing]

13 NOV 1979

Kenneth C. DeJean, Esq.
Assistant Attorney General
Post Office Box 44005
Baton Rouge, Louisiana 70804

Dear Mr. DeJean:

This is in reference to the special election for the Tenth Judicial District in Louisiana (Act 635 (1979)), submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on September 17, 1979.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not

bar any subsequent judicial action to enjoin the enforcement of such change.

For your guidance in future submissions, we would like to point out that the Procedures for the Administration of Section 5 of the Voting Rights Act (20 C.F.R. 51.5), a copy of which is enclosed, require that submissions to the Attorney General be made in duplicate.

Sincerely,

DREW S. DAYS III
Assistant Attorney
General
Civil Rights Division

GERALD W. JONES
Chief, Voting Section

[Exhibit D-2, 9/28/90 hearing]

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

OCT 11 1977

Mr. Kenneth C. DeJean
Assistant Attorney General
State of Louisiana
Department of Justice
Baton Rouge, Louisiana 70804

Dear Mr. DeJean:

This is in reference to Act 164 and Act 620 of the 1977 Regular Session of the Louisiana Legislature, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on August 12, 1977.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of

the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division

/s/ Gerald W. Jones
By: GERALD W. JONES
Chief, Voting Section

STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
BATON ROUGE
70804

August 9, 1977

CERTIFIED-RETURN RECEIPT REQUESTED

Mr. Gerald W. Jones, Chief
Voting Rights Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

Dear Mr. Jones:

The State of Louisiana hereby submits to the United States Department of Justice certified copies of Act 164 and Act 620.

These acts, which were adopted by the Louisiana Legislature at its Regular Session of 1977, are submitted in accordance with 42 U.S.C. 1973(c) as the acts effect changes with respect to voting in Louisiana.

Any questions that the United States Department of Justice may have concerning

this submission may be directed to me, Kenneth C. DeJean, Assistant Attorney General, Department of Justice, Post Office Box 44005, State Capitol, Baton Rouge, Louisiana, Telephone: (504) 389-6781.

Sincerely,

KENNETH C. DEJEAN
Assistant Attorney
General

DCJ/sds

Enclosures

Certified No. 514477

bcc: Paul J. Hardy, Secretary of State
Camille F. Gravel, Jr., Exec.
Counsel to the Governor
Norma Duncan, Asst. Director,
Legislative Council

[Exhibit D-3, 9/28/90 hearing]

U.S. Department of Justice
Washington, D.C. 20530

2 DEC 1982

Honorable William J. Guste, Jr.
Attorney General
State of Louisiana
Department of Justice
P.O. Box 44005
Baton Rouge, Louisiana 70804

Dear Mr. Attorney General:

This is in reference to Act No. 21 (1982), of the Regular Session of the Louisiana Legislature, which creates additional district court judgeships for Judicial District Nos. 1, 15, 18, 23 and 27, divides the 29th Judicial District so as to create the 40th Judicial District, provides for the election of a district attorney in the 40th Judicial District and provides for the January 15, 1983, special election to be held in that district in the State of Louisiana,

submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on October 15, 1982.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney
General
Civil Rights Division

By: /s/ Carl Gabel

Gerald W. Jones
Chief, Voting Section

STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
BATON ROUGE
70804

October 1, 1982

CERTIFIED - RETURN RECEIPT
REQUESTED -

Mr. William Bradford Reynolds
Assistant Attorney General
Civil Rights Division
Voting Rights Section
Department of Justice
Washington, D.C. 20530

Re: Submission of Act 21 of 1982 under Section 5 of the Voting Rights Act 1965

Dear Mr. Reynolds:

The state of Louisiana, through its Attorney General, William J. Guste, Jr., hereby submits Act 21 of the Regular Session of 1982, a duly certified copy of which is attached hereto.

This Act is submitted pursuant to the Voting Rights Act of 1965, Section 5, and in accordance with 28 C.F.R., Part 51, as the Act effects changes with

respect to voting in Louisiana by amending and reenacting certain portions of the Louisiana Revised Statutes. These Sections are:

R.S. 13:447(29)	R.S. 16:641
R.S. 13:621.1	R.S. 16:642
R.S. 13:621.15	R.S. 16:643
R.S. 13:621.18	R.S. 13:447(40)
R.S. 13:621.23	R.S. 16:51(41)
R.S. 13:621.27	R.S. 16:911
R.S. 13:621.29	R.S. 16:912
R.S. 16:51(29)	R.S. 13:621.40

Act 21 was originally introduced in the Louisiana House of Representatives as House Bill 572, and was sponsored by Messrs. Babin, Accardo, Dischler and Miller and Senator Casey. The bill made the following changes:

Prior law provided for judgeship positions in the 1st, 15th, 18th, 23rd, and 27th Judicial Districts.

New law: the "Omnibus Judgeship Act," increases the number of

district judges in various judicial districts, with the first judges to be elected at a special election called by the governor and to take office on January 1, 1983, for a term to expire at the same time as the terms of the other judges, with their successors to be elected at the same time and for the same terms as other district judges:

1st Judicial District, from 8 to 9 judges.

15th Judicial District, from 9 to 10 judges.

18th Judicial District, from 3 to 4 judges.

23rd Judicial District, from 3 to 4 judges.

27th Judicial District, from 3 to 4 judges.

New law authorizes the division of the 29th J.D.C. (St. Charles and St. John the Baptist Parishes) so that St. Charles will compose the 29th J.D.C. and St. John will compose the new 40th J.D.C. effective January 1, 1985, if approved at a referendum election in the two parishes to be held on the third Saturday in January 1983. If approved, the governor shall call an election for a district attorney for the new 40th J.D.C. to coincide with the regular congressional election 1984, with the new D.A. to take office on January 1, 1985. Of the existing judges in the 29th J.D.C., the three domiciled in St. Charles Parish will remain as the judges of the 29th J.D.C. and the two domiciled in

St. John will become the judges for the new 40th J.D.C.

Act 21 of 1982 was finally passed by the Legislature on May 20, by a vote of 94/1 in the House and on June 24, by a vote of 37/0 in the Senate. The Act was signed by Governor David C. Treen on July 9. Generally Act 21 became law pursuant to Article III, Section 18 of the Louisiana Constitution upon the signature of the Governor. However, the provisions of Subsection (h) of Section 6(a) of this Act shall become effective on July 1, 1984, and the provisions of Subsections (a), (b), (c), (d), (e), (f), (g), and (n) of Section 6(a) shall become effective on January 1, 1985, if the proposition submitted to the electors as provided in Subsection (i) of Section 6(a) is approved by the electors. If the

proposition is not approved by the electors, all the provisions of this Section shall expire and be null, void and of no effect. Act 21 is intended to have effect in those parishes enumerated in the Act. The Act is not anticipated to affect adversely any language or racial minority group. This enactment has not yet been enforced.

This office is unaware of any past or pending litigation concerning the change or related voting practices. Prior practices were precleared in a submission dated September 20, 1978, A7300 and October 19, 1981, E0100-0101, E1390-1393, which reference number is the United States Department of Justice file number.

Requests for further information should be directed to the undersigned,

Oliver W. Williams, Staff Attorney, Post Office Box 44005, Baton Rouge, Louisiana 70804; telephone: (504) 342-7013.

Sincerely,

WILLIAM J. GUSTE, JR.
Attorney General

BY: /s/ Oliver W. Williams
OLIVER W. WILLIAMS
Staff Attorney

OWW/crw

[Exhibit D-4, 9/28/90 hearing]

U.S. Department of Justice
Washington, D.C. 20530

OCT 19 1981

Kenneth C. DeJean, Esq.
Assistant Attorney General
Department of Justice
Baton Rouge, Louisiana 70804

Dear Mr. DeJean:

This is in reference to Act No. 568, H.B. No. 1580 (1981), which provides for the October 17, 1981, referendum election; the creation of an additional judicial district; and the increase in the number of judges for the 16th, 22nd, 24th, and 29th Judicial Districts, in the State of Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on August 18, 1981.

The Attorney General does not interpose any objections to the October 17, 1981, referendum election and the increase in the number of judges for the above-mentioned districts. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

The provision of this Act with respect to the creation of an additional judicial district is viewed as enabling legislation. However, the Attorney General will make no determination with respect to that change since the proposition did not receive voter approval. See Section 51.14 of the Procedures for the Administration of

Section 5 (46 Fed. Reg. 875). Any future attempt to implement this change will be subject to the preclearance requirements of Section 5.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney
General
Civil Rights Division

By: /s/ Carl Gabel
for Gerald W. Jones
Chief, Voting Section

STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
BATON ROUGE
70804

August 13, 1981

CERTIFIED - RETURN RECEIPT REQUESTED -

Mr. James P. Turner
Acting Assistant Attorney General
Civil Rights Division
Voting Rights Section
Department of Justice
Washington, D.C. 20530

RE: Submission of Act 568 of 1981 under Section 5 of the Voting Rights Act

Dear Mr. Turner:

The State of Louisiana, through its Attorney General, William J. Guste, Jr., hereby submits Act 568 of the Regular Session of the Louisiana Legislature of 1981, a duly certified copy which is attached hereto.

This Act is submitted pursuant to the Voting Rights Act of 1965, Section 5, and in accordance with 28 C.F.R.,

Part 51, as this Act effects changes with respect to voting in the State of Louisiana by amending and reenacting certain portions of the Louisiana Revised Statutes. These Sections are:

R.S. 13:621.16	R.S. 16:434
R.S. 13:621.22	R.S. 13:477(40)
R.S. 13:621.24	R.S. 13:621(40)
R.S. 13:621.29	R.S. 16:51
R.S. 13:477(20)	R.S. 16:911
R.S. 16:51(20)	R.S. 16:912
R.S. 16:431	R.S. 16:913
R.S. 16:432	R.S. 16:914
R.S. 16:433	

Act 568 was originally introduced in the Louisiana House of Representatives as House Bill 1580. The bill was sponsored by Representative Simoneaux and Senators Casey, Accardo, Alario, Charbonnet, D'Gerolamo, Dimos, Ensminger, Sour, and Weaver. The bill makes the following changes:

The "Omnibus Judgeship" bill provides for the following additional judgeships,

effective on the signature of the governor, to take office on January 1, 1982, to wit:

(a) Increases <u>from</u> five <u>to</u> six the judges in the 16th Judicial District (Iberia, St. Martin, and St. Mary Parishes).

(b) Increases <u>from</u> five <u>to</u> six the judges in the 22nd Judicial District (Washington and St. Tammany Parishes).

(c) Increases <u>from</u> thirteen <u>to</u> fifteen the judges in the 24th Judicial District (Jefferson Parish).

(d) Increases <u>from</u> four <u>to</u> five the judges in the 29th Judicial District (St. Charles and St. John the Baptist Parishes).

<u>New law</u> creates a new judicial district out of the present 20th Judicial

District, composed of the parishes of East and West Feliciana. If approved by a voter referendum in October, 1981, the 20th Judicial District will be composed of West Feliciana, effective March 1, 1982. If the referendum is approved, there will be a special election in January, 1982 to elect a judge for the new district, and a district attorney for the 20th Judicial District. The present district attorney for the 20th Judicial District will become the district attorney for the new district on March 1, 1982. The proposed law will reduce <u>from</u> two <u>to</u> one the assistant district attorneys for the 20th Judicial District, and creates one assistant district attorney for the new district.

<u>New law</u> provides that the district attorney for the new district will

receive $3,500/year from the parish of West Feliciana and the assistant district attorney will receive not in excess of $1,000/year.

This Act was adopted by the Louisiana Legislature pursuant to its general legislative powers provided in Article III, Section 1 of the Louisiana Constitution of 1974 and the Constitution of the United States of America, Amendment X.

Act 568 of 1981 was finally passed by the Legislature on June 18, 1981, by a vote of 83 - 3 in the House of Representatives and on July 7, 1981, by a vote of 38 - 0 in the Senate. House Bill 1580 was signed by Governor David C. Treen on July 20, 1981. Under the terms of Section 6 of the Act, the Act became effective upon signature of the Governor.

However, Section 911(j) and (k) of Act 568 specify a later effective date for certain portions of the Act. This enactment has not yet been enforced. Act 568 is intended to have effect in those parishes enumerated in the Act (Iberia, St. Martin, St. Mary, Washington, St. Tammany, Jefferson, St. Charles, and St. John the Baptist). The Act is not anticipated to affect adversely any language or racial minority group.

This office is unaware of any past or pending litigation concerning the change or related voting practices. Prior practices were not precleared because they antedated the operative date of the 1965 Voting Rights Act, although some provisions by the United States Attorney General in submission A-2029-2030, A7300, and C6386. These references

are to the United States Department of Justice file numbers.

Request for further information should be directed to the undersigned, Kenneth C. DeJean, Assistant Attorney General, Post Office Box 44005, Baton Rouge, Louisiana 70804, telephone: (504) 342-7013.

Sincerely,

WILLIAM J. GUSTE, JR.
Attorney General

BY: /s/ Kenneth C. DeJean
KENNETH C. DEJEAN
Assistant Attorney General

KCK:CDY:lg
Attachment

UNITED STATES OF AMERICA
STATE OF LOUISIANA
JAMES H. "JIM" BROWN
SECRETARY OF STATE

As Secretary of State, of the State of Louisiana, I do hereby Certify that the annexed and following pages contain a true and correct copy of Act No. 568 of the 1981 Regular Session of the Louisiana Legislature as shown by comparison with the original on file in the archives of this office.

In testimony whereof, I have hereunto set my hand and caused the Seal of my Office to be affixed at the City of Baton Rouge on

this the 28th day of July, 1981.

/s/ Jim Brown
Secretary of State

* * *

AN ACT

To amend the reenact Sections 621.16, 621.22, 621.24, and 621.29 of Title 13, the initial paragraph and Paragraph (20) of Section 477 of Title 13, Paragraph (20) of Section 51 of Title 16, and Sections 431, 432, 433, and 434 of Title 16, to amend Section 477 of Title 13 by adding thereto a new Paragraph, to be designated as Paragraph (40), to amend Title 13 by adding thereto a new Section to be designated as Section 621.40, to amend Section 51 of Title 16 by adding thereto a new Paragraph, to be designated as Paragraph (40), and to amend Title 16 by adding thereto a new Part to be designated as Part XXXVI of Chapter 2 to

be comprised of Sections 911, 912, 913, and 914; all Titles of the Louisiana Revised Statutes of 1950, relative to the establishment of additional offices of judges, district attorneys, assistant district attorneys, and new judicial divisions, to provide for the modification of the number of judgeships in the Sixteenth, Twenty-Second, Twenty-Fourth, and Twenty-Ninth Judicial Districts, to provide for the creation of a new judicial district out of the Twentieth Judicial District, to provide for a district attorney and assistant district attorneys for the Twentieth Judicial District and new judicial district; to provide for a judgeship for the new judicial district; to provide for a judgeship for the new judicial

district, and otherwise to provide with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1(a). Section 621.16 of Title 13 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read a follows:

§621.16. Sixteenth Judicial District

The Sixteenth Judicial District shall have six judges.

(b). There is hereby created an additional office of district judge for the Sixteenth Judicial District Court for the parishes of Iberia, St. Martin, and St. Mary.

For purposes of nomination and election only, there is hereby created in

the Sixteenth Judicial District one new division, to be designated as Division F.

The additional judge herein provided for shall be elected at large from the Sixteenth Judicial District and shall have jurisdiction throughout the district and shall be elected by the qualified electors of the district.

* * *

The first judge to be elected to the additional judgeship shall be elected as provided by Article V, Section 22 of the Constitution. He shall take office on January 1, 1982 and shall serve for a term that shall expire at the same time as is provided by law for the other judges of the court. Thereafter, the successors to the additional judgeship provided for by this Section shall be elected at the same time and in the same

manner and shall serve the same term as is now or may be hereafter provided for other judges of the district.

Section 2(a). Section 621.22 of Title 13 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§621.22. Twenty-Section Judicial District

The Twenty-Section Judicial District shall have six judges.

(b). There is hereby created an additional office of district judge for the Twenty-Second Judicial District Court for the parishes of Washington and St. Tammany.

For purposes of nomination and election only, there is hereby created in the Twenty-Second Judicial District one

new division, to be designated as Division F.

The additional judge herein provided for shall be elected at large from the Twenty-Section Judicial District and shall have jurisdiction throughout the district and shall be elected by the qualified electors of the district.

* * *

The first judge to be elected to the additional judgeship shall be elected as provided by Article V, Section 22 of the Constitution. He shall take office on January 1, 1982 and shall serve for a term that shall expire at the same time as is provided by law for the other judges of the court. Thereafter, the successors to the additional judgeship provided for by this Section shall be elected at the same time and in the same

manner and shall serve the same term as is now or may be hereafter provided for other judges of the district.

Section 3(a). Section 621.24 of Title 13 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§621.24. Twenty-Fourth Judicial District

The Twenty-Fourth Judicial District shall have fifteen judges.

(b). There are hereby created two additional offices of district judge for the Twenty-Fourth Judicial District Court for the parish of Jefferson.

For purposes of nomination and election only, there are hereby created in the Twenty-Fourth Judicial District two new divisions, to be designated as Division N and Division O.

The additional judges herein provided for shall be elected at large from the Twenty-Fourth Judicial District and shall have jurisdiction throughout the district and shall be elected by the qualified electors of the district.

* * *

The first judge to be elected to each additional judgeship shall be elected as provided by Article V, Section 22 of the Constitution. He shall take office on January 1, 1982 and shall serve for a term that shall expire at the same time as is provided by law for the other judges of the court. Thereafter, the successors to each additional judgeship provided for by this Section shall be elected at the same time and in the same manner and shall serve the same term as

is now or may be hereafter provided for other judges of the district.

Section 4(a). The initial paragraph and Paragraph (20) of Section 477 of Title 13 of the Louisiana Revised Statutes of 1950 are hereby amended and reenacted, and Paragraph (40) of said Section 477 is hereby enacted, all to read as follows:

§477. Judicial districts

There shall be forty judicial districts in the state, the parish of Orleans excepted, and each district shall be composed as follows:

* * *

(20) The parish of East Feliciana shall compose the Twentieth District.

* * *

(40) The parish of West Feliciana shall compose the Fortieth District.

(b). Section 621.40 of Title 13 of the Louisiana Revised Statutes of 1950 is hereby enacted to read as follows:

§621.40. Fortieth Judicial District

The Fortieth Judicial District Court shall have one judge.

* * *

(f). There is hereby established the office of judge for the Fortieth Judicial District Court, to be composed of the parish of West Feliciana as provided in this Section.

The judge herein provided for shall be elected at large from the parish of West Feliciana.

* * *

(g). The governor, within fifteen days after the effective date of this Subsection, shall call a special election, to be held on the third Saturday in October of 1981 as provided in R.S. 18:402(F)(4), to submit to a vote of the electors of the existing Twentieth Judicial District, being the parishes of East Feliciana and West Feliciana, for their approval or disapproval as provided in Section 15 of Article V of the Louisiana Constitution, the following proposition in substantially the following form:

FOR the proposition that the Twentieth Judicial District be divided, effective March 1, 1982, by the establishment of the Fortieth Judicial District composed of West Feliciana Parish, and continuing the

Twentieth Judicial District composed of East Feliciana Parish as provided by Act No. _____ of the 1981 Regular Session of the Louisiana Legislature.

and also:

AGAINST the proposition that the Twentieth Judicial District be divided, effective March 1, 1982, by the establishment of the Fortieth Judicial District composed of West Feliciana Parish, and continuing the Twentieth Judicial District composed of East Feliciana Parish as provided by Act No. ____ of the 1981 Regular Session of the Louisiana Legislature.

The secretary of state shall fill in the number of this Act in the Propositions.

The special election provided for in this Subsection shall be conducted in accordance with law.

(h). If the proposition submitted to the electors as provided for in Subsection (g) of this Section is approved by the electors then:

i. On and after March 1, 1982, the Twentieth and Fortieth Judicial Districts shall be composed as is provided in Subsection (a) of this Section.

ii. The governor, within fifteen days after the date the results of the referendum provided for in Subsection (g) of this Section become official as provided in Section 575 of the Louisiana Election Code, shall call special elections for the purposes of electing a judge for the Fortieth Judicial District and a district attorney for the Twentieth

Judicial District. The primary elections shall be held on the second Saturday in January, 1982, and the general elections shall be held on the sixth Saturday after the second Saturday in January, 1982. The elections herein provided for shall be conducted in accordance with law. The governor shall fix the opening and closing dates of the qualification periods for candidates.

iii. The judge and district attorney elected at the special elections herein provided for shall take office on March 1, 1982, and shall serve for the terms which shall expire at the same time as the terms provided by law for judges of district courts and for district attorneys throughout the state.

iv. The successors to the officers elected at the special elections provided

for in this Section shall be elected at large from the parish composing their judicial district at the same time and in the same manner as is provided by law for the election of such officers throughout the state.

v. The judge of the Twentieth Judicial District holding office on the effective date of this Subsection shall continue to serve as judge for that district until March 1, 1982. On and after March 1, 1982, he shall serve as the judge for the Twentieth Judicial District until his term expires. Thereafter, the judge for the Twentieth Judicial District shall be elected at large from the parish of East Feliciana at the same time and in the same manner as is provided by law for the election of

judges of district courts throughout the state.

* * *

(i). In the event more than one judicial district is established by authority of legislation passed at the 1981 Regular Session of the louisiana Legislature, and two or more of such newly established districts are designated by the same number, the secretary of state is hereby authorized and directed to assign consecutive numbers to the newly established judicial districts, commencing with the Fortieth Judicial District, and to designate properly on the ballot provided for in Subsection (g) of this Section the number of the new district created under the provisions of this Section.

(j). If the secretary of state changes the number of any new judicial district established a the 1981 Regular Session of the Louisiana Legislature by virtue of his authority under Subsection (i) of this Section, the Louisiana State Law Institute shall make necessary changes in applicable statutes, in order that all references to such judicial districts correspond to the number designation assigned to such judicial districts by the secretary of state.

(k). The provisions of Subsections (g), (h), (i), (j), and (k) of this Section shall become effective upon signature by the governor or, if not signed or vetoed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III,

Section 18 of the Constitution. The provisions of Subsection (f) of this Section shall become effective on September 1, 1981, and the provisions of Subsection (a), (b), (c), (d), and (e) of this Section shall become effective on March 1, 1982, if the proposition submitted to the electors as provided in Subsection (g) of this Section is approved by the electors. If the proposition is not approved by the electors, the provisions of this Section shall expire and be null, void, and of no effect.

Section 5 (a). Section 621.29 of Title 13 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§621.29. Twenty-Ninth Judicial District

The Twenty-Ninth Judicial District Court shall have five judges.

(b). For purposes of nomination and election only, there is hereby created in the Twenty-Ninth Judicial District one new division, to be designated as Division E.

There is hereby created an additional office of district judge for the Twenty-Ninth Judicial Court for the parishes of St. Charles and St. John the Baptist.

The additional judge herein provided for shall have jurisdiction throughout the district and shall be elected by the qualified electors of the district.

* * *

The first judge to be elected to the additional judgeship shall be elected as provided by Article V, Section 22 of the

constitution. He shall take office on January 1, 1982 and shall serve for a term which shall expire at the same time as is provided by law for the other judges of the court. Thereafter, the successors to the additional judgeship provided for by the Section shall be elected at the same time and in the same manner and shall serve the same term as is now or may be hereafter provided for other judges of the district.

* * *

Section 8. All laws or parts of laws in conflict herewith are hereby repealed.

/s/ John J. Hainkel, Jr.
SPEAKER OF THE HOUSE OF REPRESENTATIVES

/s/ Michael H. O'Keefe
PRESIDENT OF THE SENATE

/s/ David C. Treen
GOVERNOR OF THE STATE OF
LOUISIANA

APPROVED: 7/20/81

[Exhibit D-5, 9/28/90 hearing]

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

SEP 20 1978

Mr. Kenneth DeJean
Assistant Attorney General
State of Louisiana
Baton Rouge, Louisiana 70804

Dear Mr. DeJean:

This is in reference to Act No. 39 of the 1978 Regular Session of the Legislature of Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on July 26, 1978.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney

General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

Sincerely,

DREW S. DAYS III
Assistant Attorney
General
Civil Rights Division

By: /s/ Gerald W. Jones
GERALD W. JONES
Chief, Voting Section

State of Louisiana
Department of Justice
Baton Rouge
70804

July 24, 1978

CERTIFIED-RETURN RECEIPT REQUESTED

Mr. Gerald W. Jones, Chief
Voting Rights Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

Dear Mr. Jones:

The State of Louisiana hereby submits to the United States Department of Justice certified copies of:

Act 14	Act 202	Act 453
Act 38	Act 206	Act 494
Act 39	Act 215	Act 503
Act 56	Act 246	Act 506
Act 62	Act 292	Act 534
Act 137	Act 296	Act 554
Act 145	Act 298	Act 580
Act 178	Act 316	Act 720
Act 185	Act 419	Act 721
Act 201	Act 429	

Senate Concurrent Resolution No. 35

These acts and resolution, which were adopted by the Louisiana Legislature at its Regular Session of 1978, are

submitted in accordance with 42 U.S.C. 1973(c) as the acts effect changes with respect to voting in Louisiana.

Any questions that the United States Department of Justice may have concerning this submission may be directed to me, Kenneth C. DeJean, Assistant Attorney General, Department of Justice, Post Office Box 44005, State Capitol, Baton Rouge, Louisiana, 70804, Telephone: (504) 342-7013.

Sincerely,

/s/ Kenneth C. DeJean
KENNETH C. DEJEAN
Assistant Attorney General

KCD:vb
Enclosures

[Exhibit D-6, 9/28/90 hearing]

U.S. Department of Justice
Washington, D.C. 20530

August 26, 1981

Mr. Kenneth DeJean
Assistant Attorney General
State of Louisiana
P.O. Box 44005
Baton Rouge, Louisiana 70804

Dear Mr. DeJean:

This is in reference to Act No. 3 of the 1981 Regular Session of the Louisiana Legislature, which provides additional appellate court judges and a special election in October 1981, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on August 4, 1981. In accordance with your request expedited consideration has been given this submission pursuant to Section 51.32

of the Procedures for the Administration of Section 5 (46 Fed. Reg. 877).

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: /s/ Carl Gabel
for Gerald W. Jones
Chief, Voting Section

State of Louisiana
Department of Justice
Baton Rouge
70804

July 29, 1981

CERTIFIED - RETURN RECEIPT REQUESTED

Mr. James P. Turner
Acting Assistant Attorney General
Civil Rights Division
Voting Rights Section
Department of Justice
Washington, D.C. 20530

RE: Submission of Act 3 of 1981 under Section 5 of Voting Rights Act

Dear Mr. Turner:

The State of Louisiana, through its Attorney General, William J. Guste, Jr., hereby submits Act 3 of the Regular Session of the Louisiana Legislature of 1981, a duly certified copy of which is attached hereto.

This Act is submitted pursuant to the Voting Rights Act of 1965, Section 5, and in accordance with 28 C.F.R., Part 51, as this Act effects changes with

respect to voting in the State of Louisiana Revised Statutes. Those sections are: R.S. 13:312, R.S. 13:312.1, R.S. 13:321, and R.S. 13:353.

Act 3 was originally introduced in the Louisiana Senate as Senate Bill 170. The purpose of the bill is to assist in facilitating changes in appellate jurisdiction of the Louisiana Supreme Court and the Louisiana Circuit Courts of Appeal. Prior to 1980, the Louisiana Courts of Appeal had no criminal jurisdiction. However, by reason of Act 843 of 1980, approved by the Louisiana electorate on November 4, 1980, as an amendment to the Louisiana Constitution, effective July 1, 1982 appellate jurisdiction in criminal matters will be vested in the Louisiana Courts of Appeal. With the change in the appellate

jurisdiction of the Courts of Appeal, the Legislature recognized the need for additional judgeships to handle the additional criminal appeal workload that these courts will assume and accordingly, Act 3 made the following changes:

New law, relative to the courts of appeal, basically provides for the creation of a Fifth Circuit, out of the present Fourth Circuit, and also increases the number of appellate judges from 33 to 48 throughout the state.

New law creates the court of appeals for the Fifth Circuit out of the present Fourth Circuit. The chart below shows the number of judges and arrangement of districts in the prior law, Act 661 of 1980, and the new law to wit:

	PRIOR LAW		ACT 661, 1980 R.S.		NEW LAW	
1.	First Circuit					
	Districts	Judges	Districts	Judges	District	Judges
1st -	Ascension, Assumption Iberville, Lafourche, Pointe Coupee, St. Mary, Terrebonne, and West Baton Rouge	3	1st - (Same)	3	1st - (Same)	4
2nd -	East Baton Rouge	3	2nd - (Same)	3	2nd - (Same)	4
3rd -	East Feliciana, Livingston, St. Helena, St. Tammany, Tangipahoa, Washington, and West Feliciana	3	3rd - (Same) At Large	3 1	3rd - (Same)	4
Total		9	Total	10	Total	12
2.	Second Circuit					
	Districts					
1st -	East Carroll, Franklin Madison, Morehouse, Ouachita, Richland, Tensas, and West Carroll	1	1st - (Same)	1	1st - (Same)	2
2nd -	Bienville, Bossier, Caldwell, Claiborne, Jackson, Lincoln, Union Webster, and Winn	1	2nd - (Same)	1	2nd - (Same)	2
3rd -	Caddo, DeSoto, and Red River	1	3rd - (Same)	1	3rd - (Same)	2
At Large		2	At Large	3	At Large	1
Total		5	Total	6	Total	7
3.	Third Circuit (No Change by new law)					
	Districts					
1st -	Avoyelles, Catahoula, Concordia, Grant,		1st - (Same)	2	1st - (Same)	2

	LaSalle, Natchitoches, Rapides, and Sabine	2	
2nd -	Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vernon	2	2nd - (Same) 2 — 2nd - (Same) 2
3rd -	Acadia, Evangeline, Iberia, Lafayette, St. Martin, St. Landry, and Vermilion	2	3rd - (Same) 2 — 3rd - (Same) 2
At Large		3	At Large 3 — At Large 3
Total		9	Total 9 — Total 9
4.	Fourth Circuit		
	Districts		
1st -	Jefferson	2	1st - Orleans 8 — 1st - Orleans 8
2nd -	Orleans	5	2nd - Plaquemines 1 — 2nd - Plaquemines 1
3rd -	St. Charles, St. James, St. John the Baptist	1	3rd - St. Bernard 1 — 3rd - St. Bernard 1
4th -	Plaquemines and St. Bernard	1	
From combined 1st, 3rd, and 4th districts		1	
Total		10	Total 10 — Total 12
5.	Fifth Circuit (New)		
	1st -	Jefferson	1 — 1st - (Same) 6 (7)
	2nd -	St. James, St. John the Baptist (east of the Mississippi)	1 — 2nd - (Same) 1
	3rd -	St. Charles, St. John the Baptist (west of the Mississippi)	1 — 3rd - (Same) 1
			Total 6 — Total 8 (9)
TOTAL		33	TOTAL 41 — TOTAL 48 (49)

An additional judge for the first district exists until January 1, 1983.

. . .

Act 661 of 1980 would create the additional judgeships shown on the chart effective December 1, 1981.

New law repeals the above digested provisions of Act 661 which are to be effective December 1, 1981, except that it retains the provisions of Act 661 which created one additional judgeship for the Fourth Circuit. That judgeship has been filled. (Effective on signature of the governor).

Prior law provided that a sheriff's deputy shall attend each session of court for the First, Second, and Third Circuits. The Fourth Circuit is attended

by the New Orleans police. New law adds sheriffs' deputies for the Fifth Circuit. (Effective may 1, 1982).

New law provides that all additional judgeships shall be established as soon as this Act is signed by the governor. Provides for a special election by special primary on the third Saturday in October and special general election on the sixth Saturday following the third Saturday in October. The new judges for the First, Second, and Fourth Circuit take office on January 1, 1982; the judges for the Fifth Circuit take office May 1, 1982. The new judges for the "new" Fourth Circuit will be elected to districts of the "old" Fourth Circuit, take office on January 1, 1982, and be

transferred to the "new" Fourth Circuit on May 1, 1982.

Provides that nine judgeships shall be established for the Fifth Circuit until January 1, 1983. Provides that seven of the judges shall be elected from the first district of the Fifth Circuit. Provides that one judgeship from the first district shall be abolished on January 1, 1983 (when the incumbent judge's term expires). Provides that four of the nine judges are incumbent judges, the remaining five additional judges shall be selected as follows: one from the third district, and four from the first district of the Fifth Circuit.

Prior law provided for alphabetical divisions (A, B, C,....) within each

district of the First Circuit. New law provides the same for all court of appeal circuits. (Effective on the signature of the governor).

Effective dates

(a) On Act's signature by governor - establishment of all judgeships.

(b) May 1, 1982 - creation of the Fifth Circuit.

(c) On signature of the governor - all other provisions.

Act 3 was adopted by the Louisiana Legislature pursuant to its general legislative powers provided in Article III, Section 1 of the Louisiana Constitution of 1974 and the Constitution of the United States of America, Amendment X.

Act 3 was finally passed by the Legislature on May 27, 1981, when the Louisiana Senate concurred in House amendments by a vote of 33 - 0. The House of Representatives had previously adopted the bill by a vote of 77 - 1 on May 2, 1981. The Act was signed by Governor David C. Treen on June 2, 1981.

Section 13 of the Act provides with respect to the effective date of the various sections of Act 3. In accordance with the mandate of Act 3, Governor Treen has issued an Executive Proclamation calling for elections to fill the newly created judgeships which are scheduled to be conducted on October 17, 1981 and November 28, 1981 for the primary and general elections, respectively. A copy of this proclamation is enclosed. Due to these impending elections, the State of

Louisiana requests expedited consideration.

The Act will be effective with respect to only those portions of the State of Louisiana where additional Court of Appeal judgeships have been created, and it is not anticipated that the Act will affect adversely any language or racial minority group.

An action entitled Elmer Tapper v. David C. Treen, Governor of Louisiana, was filed in the Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana, relative to the implementation of Act 3. A copy of the Plaintiff's petition is included, although Mr. Tapper has voluntarily dismissed his petition as of July 22, 1981. The prior practices were precleared by the United States Attorney

General in a letter dated August 28, 1980, a copy of which is attached hereto.

Requests for further information should be directed to the undersigned, Kenneth C. DeJean, Assistant Attorney General, Post Office Box 44005, Baton Rouge, Louisiana 70804, telephone: (504) 342-7013.

Sincerely,

WILLIAM J. GUSTE, JR.
Attorney General

By: /s/ Kenneth C. DeJean
KENNETH C. DEJEAN
Assistant Attorney General

KCD:lg
Enclosures (4)

UNITED STATES OF AMERICA

STATE OF LOUISIANA

JAMES H. "JIM" BROWN
SECRETARY OF STATE

As Secretary of State, of the State of Louisiana, I do hereby Certify that the annexed and following pages contain a true an correct copy of Act No. 3 of the 1981 Regular Session of the Louisiana Legislature as shown by comparison with the original on file in the archives of this office.

In testimony whereof I have hereunto set my hand and caused the seal of my office to be affixed at the City of Baton Rouge on July 1, 1981

/s/ Jim Brown
SECRETARY OF STATE

AN ACT

To amend and reenact the introductory paragraph and Paragraph (4) of Section 312, Subsections A, B, and D of Section 312.1, Section 321, and Subsection B of Section 353 all of Title 13 of the Louisiana Revised Statutes of 1950; to amend Section 312 of said Title by adding thereto a new Paragraph to be designated as Paragraph (5) thereof; to amend Section 312.1 of said Title by adding thereto a new Subsection to be designated as Subsection E thereof; to repeal Sections 1, 2, 3, 4, 5, and 5 of Act 661 of the 1980 Regular Session, relative to the courts of appeal; to provide for judges, districts, divisions, the

fifth circuit; and otherwise to provide with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph and Paragraph (4) of Section 312, Subsection D of Section 312.1, and Subsection B of Section 353 of Title 13 of the Louisiana Revised Statutes of 1950 are hereby amended and reenacted, and Paragraph (5) of Section 312, and Subsection E of Section 312.1, of said Title are hereby enacted to read as follows:

§312. Courts of appeal; circuits and districts

There shall be five court of appeal circuits, which shall

be subdivided into districts as follows:

* * *

4. (a) Fourth Circuit. The parishes of Orleans, Plaquemines, and St. Bernard shall compose the fourth circuit, and the court of appeal for that circuit shall be known as "Court of Appeal, Fourth Circuit, State of Louisiana."

(b) Districts of the fourth circuit. The parish of Orleans shall compose the first district of the fourth circuit; the parish of Plaquemines shall compose the second district of the fourth circuit; and the parish of St. Bernard shall compose the third district of the fourth circuit.

5. (a) Fifth Circuit. The parishes of Jefferson, St. Charles, St. James, and St. John the Baptist shall compose the fifth circuit and the court of appeal for that circuit shall be known as "Court of Appeal, Fifth Circuit, State of Louisiana."

(b) Districts of the fifth circuit. The parish of Jefferson shall compose the first district of the fifth circuit. The parish of St. James and that portion of St. John the Baptist Parish east of the Mississippi River shall compose the second district of the fifth circuit. The parish of St. Charles and that portion of St. John the Baptist parish west of the Mississippi River shall compose the third district of the fifth circuit.

§312.1. Circuit courts of appeal, domicile, number of judges; election

* * *

D. The Court of Appeal for the Fourth Circuit, domiciled in the city of New Orleans, shall have twelve judges. Eight judges shall be elected from the first district of the fourth circuit by the qualified electors thereof. One judge shall be elected from the second district by the qualified electors thereof. One judge shall be elected from the third district by the qualified electors thereof. Two judges shall be elected from the circuit at large by the qualified electors thereof.

E. The Court of Appeal for the Fifth Circuit, domiciled in the city of Gretna shall initially be composed of nine judges. On January 1, 1983 and thereafter, the court of appeal for the fifth circuit shall have eight judges. Seven judges initially shall be elected from the first district of the fifth circuit. Effective January 1, 1983, six judges shall be elected from the first district of the fifth circuit by the qualified electors thereof. One judge shall be elected from the second district of the fifth circuit by the qualified electors thereof. One judge shall be elected from the third district of the fifth circuit by the qualified voters thereof.

* * *

Section 2. The Court of Appeal, Fourth Circuit shall be composed of the parishes and with the districts as provided in Section 1 of this Act.

The Court of Appeal, Fifth Circuit is hereby established and shall be composed of the parishes and with the districts as provided in Section 1 of this Act.

Section 3. Section 321 of Title 13 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§321. Divisions of the districts of the courts of appeal

A. For the purpose of nomination and election only, there shall be separate and distinct divisions within each

district of the various courts of appeal.

For the purposes of this Section, the word "district" shall include not only those districts provided for in R.S. 13:312, but also, any combination of those districts with regard to those judgeships to be filled by election at large throughout the said combination, and any court of appeal circuit with regard to those judgeships to be filled by election from the circuit at large.

B. The divisions provided for in Subsection A of this Section shall be designated alphabetically as division "A",

division "B", division "C", etc. The judge senior in point of continuous service shall preside over division A, and the other judges of the district shall occupy the other designated divisions according to their respective periods of continuous service. In the event two or more judges in a district shall have served continuously the same length of time, the judge senior in age shall occupy the division first in alphabetical order of the divisions in question.

C. A candidate for nomination and election to a judgeship of any such court of appeal, at the time of filing

his declaration as a candidate therefor, shall designate only one division of the district of the court for the judgeship for which he is a candidate. All nominating and election officials and other persons provided for by law shall provide for the execution of this Section.

D. The divisions of the districts of the courts of appeal shall be determined on July 31, 1981 in accordance with the provisions of this Section. Thereafter, the establishment of any additional court of appeal judgeship shall automatically operate to create an additional division within the district

wherein the additional judgeship is established. The additional divisions shall be given alphabetical designation in the order of their establishment. The successor to any judge in a district shall occupy the same division as his predecessor.

E. Notwithstanding any provisions of this Section to the contrary, those judges of the court of appeal of the first circuit holding office on July 31, 1981 shall continue to occupy their respective divisions in accordance with Act 305 of the 1975 Regular Session of the Legislature. After July 31, 1981 additional divisions shall be created in accordance

with the provisions of this Section.

Section 4. Each judge of the court of appeal for the Fourth Circuit shall, on May 1, 1982, become a judge from the district of the circuit, as that circuit is composed in Section 1 of this Act, in which the parish of his domicile, at the time he was elected to office, lies; and shall serve as a judge from that district until the end of his term. Thereafter, the judge for each respective office shall be elected from the respective district by the qualified electors thereof.

Notwithstanding other provisions of this Section, those said judges who were elected from the combined second, fourth, and fifth districts of the fourth circuit

shall on and after May 1, 1982 serve as judges from the fourth circuit at large until the end of their respective terms. Thereafter, their successors shall be elected from the circuit at large by the qualified electors thereof.

Section 5. (a). The office of judge for the Court of Appeal for the Second Circuit, the judge of which office was elected from the circuit at large by its qualified electors and whose term expires on December 31, 1990, shall hereafter be a division of the second district of the second circuit.

(b) The judge holding the office described in Subsection A of this Section on the effective date of this Section shall continue to serve as judge for the said office until his term expires. Thereafter, or in the event the office

becomes vacant, the judge for the said office shall be elected from the second district of the circuit by the qualified electors thereof.

Section 6. (a). Subsection A of Section 312.1 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§312.1 Circuit Courts of appeal, domicile, number of judges; election

A. The Court of Appeal for the First Circuit, domiciled in the city of Baton Rouge, shall have twelve judges. Four judges shall be elected from each of the three districts composing the circuit by the qualified electors of each district, respectively.

* * *

(b). There are hereby established three additional offices of judge for the Court of Appeal for the First Circuit, to increase the number of judges for the court of appeal for said circuit from nine to twelve judges. One additional judge provided for in this Subsection shall be elected from each district of the circuit by the qualified electors of each respective district.

The initial term of office of each additional judge provided for in this Section shall begin on January 1, 1982. The initial term of office for each newly elected judge shall expire on December 31, 1990.

The first judge to be elected to each additional office shall be elected at a special primary election as provided by Article V, Section 22 of the

constitution. The governor shall call the special primary election for the third Saturday in October 1981, and the special general election for the sixth Saturday after the third Saturday in October, 1981.

The successors to each additional office of judge herein provided, after the initial term of office, shall be elected for terms of ten years.

Each additional judge shall receive the same compensation, expenses, and emoluments of office as are now or hereafter provided by law for the other judges of the circuit.

Section 7. (a). Subparagraph (b) of Paragraph 4 of the Section 312 and Subsection D of Section 312.1 of Title 13 of the Louisiana Revised Statutes of 1950

are hereby amended and reenacted to read as follows:

§312. Courts of appeal; circuits and districts

There shall be four court of appeal circuits, which shall each be subdivided into districts as follows:

* * *

4.

* * *

(b) Districts of fourth circuit. The parish of Jefferson shall compose the first district of the fourth circuit; the parish of Orleans shall compose the second district of the fourth circuit; the parishes of St. Charles, St. James, and St. John the Baptist shall compose the third district of the

fourth circuit; the parish St. Bernard shall compose the fourth district of the fourth circuit; and the parish of Plaquemines shall compose the fifth district of the fourth circuit.

§312.1. Circuit courts of appeal; domicile; number of judges; election

* * *

D. The Court of Appeal for the Fourth Circuit, domiciled in the City of New Orleans, shall have sixteen judges. One judge shall be elected from the combined first, third, fourth and fifth districts of the circuit by the qualified electors thereof. Two judges shall be elected from the first district of the circuit by the qualified

electors thereof. Eight judges shall be elected form the second district of the circuit by the qualified electors thereof. One judge shall be elected from the fourth district of the circuit by the qualified electors thereof. Two judges shall be elected to the combined second, fourth and fifth districts of the circuit by the qualified electors thereof. One judge shall be elected from the fifth district of the circuit by the qualified electors thereof.

* * *

(b). There are hereby established six additional offices of judge for the Court of Appeal for the Fourth Circuit, to increase the number of judges for the court of appeal for said

circuit from ten to sixteen judges. Three of the additional judges provided for in this Subsection shall be elected from the second district of the circuit by the qualified electors of the district. Two of the additional judges shall be elected from the combined second, fourth and fifth districts of the circuit by the qualified electors thereof. One of the additional judges shall be elected from the fifth district of the circuit by the qualified electors thereof.

The initial term of office of each additional judge provided for in this Section shall begin on Jan. 1, 1982. The initial term of office for each newly elected judge shall expire on December 31, 1990.

The first judge to be elected to each additional office shall be elected at a special election as provided by Article V, Section 22 of the Constitution. The governor shall call the special primary election for the third Saturday in October, 1981 and the special general election for the sixth Saturday after the third Saturday in October, 1981.

The successors to each additional office of judge herein provided, after the initial term of office, shall be elected for terms of ten years.

Each additional judge shall receive the same compensation, expenses and emoluments of office as are now or hereafter provided by law for the other judges of the circuit.

Section 8. (a). Subsection B of Section 312.1 of Title 13 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§312.1 Circuit courts of appeal, domicile, number of judges; election

* * *

B. The Court of Appeal for the Second Circuit, domiciled in the city of Shreveport, shall have seven judges. One judge shall be elected from the circuit at large by the qualified electors thereof. Two judges shall be elected from each of the three districts composing the circuit by the qualified electors of each district, respectively.

* * *

(b). There are hereby established two additional offices of judge for the Court of Appeal for the Second Circuit, to increase the number of judges for the court of appeal for said circuit from five to seven judges. One of the additional judges shall be elected from the first district of the circuit by the qualified electors thereof. One of the additional judges shall be elected from the third district of the circuit by the qualified electors thereof.

The initial term of office of each additional judge provided for in this Section shall begin on January 1, 1982. The initial term of office for each newly elected judge shall expire on December 31, 1990.

The first judge to be elected to each additional office shall be elected

at a special election as provided by Article V, Section 22 of the constitution. The governor shall call the special primary elections for the third Saturday in October, 1981 and the special general election for the sixth Saturday after the third Saturday in October, 1981 and the special general election for the sixth Saturday after the third Saturday in October, 1981. The successors to each additional office of judge herein provided, after the initial term of office, shall be elected for terms of ten years.

Each additional judge shall receive the same compensation, expenses, and emoluments of office as are now or hereafter provided by law for the other judges of the circuit.

Section 9. (a). There are hereby established twelve offices of judge for the Court of Appeal for the Fourth Circuit as that circuit and its districts are composed in Section 1 of this Act, which shall be filled by incumbent judges in accordance with the provisions of Section 4 of this Act.

(b). Notwithstanding the provisions of R.S. 13:321 or other provisions of law, for purposes of nomination and election only, the first district of the Court of Appeal of the Fourth Circuit, as composed in Section 1 of this Act, shall have eight divisions which shall be designated as Divisions A, B, C, D, E, F, G, and H. The judges who hold office and are domiciled in the first district of the circuit as composed in Section 1 of this Act, on the

effective date of this Section, shall occupy Divisions A through E. The judge having the greatest seniority shall occupy Division A, the judge having the next greatest seniority, Division B, and so on through C, D, and E. Whenever a judge is appointed or elected to succeed a judge of a division, that division shall remain the same without regard to the seniority of any of the judges of the district. The additional judges provided for the said circuit by this Act shall occupy the remaining divisions. Hereafter additional divisions within the circuit shall be created in accordance with R.S. 13:321.

Section 10. (a). There are hereby established nine offices of judge for the Court of Appeal for the Fifth Circuit as the circuit and its districts are

composed in Section 1 of this Act. Since four of the nine offices of judge provided for in this Subsection will be filled by incumbent judges in accordance with the provisions of Section 4 of this Act, the remaining five are additional offices and the additional judges thereof shall be elected as follows: One of the additional judges shall be elected from the third district of the said circuit by the qualified electors thereof; and four of the additional judges shall be elected from the first district of the said circuit by the qualified electors thereof.

(b). Notwithstanding the provisions of R.S. 13:321 or any other provision of law to the contrary, for purposes of nomination and election only the first district of the Court of Appeal of the

Fifth Circuit shall have seven divisions, which shall be initially designated as Divisions A, B, C, D, E, F, and G. The judges who, on May 1, 1981, hold office in the Court of Appeal for the Fourth Circuit and are domiciled in the first district of the fifth circuit as it is composed in Section 1 of this Act, shall occupy Divisions A through C. The judge having the greatest seniority shall occupy Division A, the judge having the next greater seniority, Division B, and the judge having the next greatest seniority, Division C. Whenever a judge is appointed or elected to succeed a judge of a division, that division shall remain the same without regard to the seniority of any of the judges of the district. The additional judges for the first district provided for in this Act

shall occupy the remaining divisions. Hereafter, additional divisions within the circuit shall be created in accordance with R.S. 13:321.

(c). The initial term of office of each additional judge elected in accordance with the provisions of this Section shall begin on May 1, 1982. The initial term of office for each newly elected judge shall expire on December 31, 1990.

The first judge to be elected to each additional office shall be elected at a special election as provided by Article V, Section 22 of the Constitution. The governor shall call the special primary election for the third Saturday in October, 1981, and the special general election for the sixth

Saturday after the third Saturday in October 1981.

The successors to each said office of judge herein provided, after the initial term of office, shall be elected for terms of ten years.

Each additional judge shall receive the same compensation, expenses, and emoluments of office as are now or hereafter provided by law for the other judges of the circuit.

(d). The office of judge of Division A of the first district of the Court of Appeal for the Fifth Circuit is abolished effective January 1, 1983.

* * *

Section 12. All law or parts of laws in conflict herewith are hereby repealed. Sections 1, 2, 3, 4, 5 and 6 of Act 661 of the 1980 Regular Session of

the Legislature of Louisiana are hereby repealed.

Section 13. (a). Sections 3, 4, 5, 6, 7, 8, 9(b), 10, 11, and 12 of this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana.

(b). Sections 1, 2 and 9(a) of this Act shall be effective on May 1, 1982. All laws and parts of laws in conflict with Section 1, 2, and 9(a) of this Section shall be repealed effective May 1, 1982.

/s/ Michael H. O'Keefe
PRESIDENT OF THE SENATE

/s/ John J. Hainkel, Jr.
SPEAKER OF THE HOUSE OF REPRESENTATIVES

/s/ David L. Treen
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: 06/21/1981

[Exhibit D-2, 10/18/90 Hearing]

U.S. Department of Justice

WBR:CWG:TGL:dvs
DJ 166-012-3 Washington, D.C. 20530
G5606-5607
G7029-7030

2 DEC 1982

Honorable William J. Guste, Jr.
Attorney General
State of Louisiana
Department of Justice
P.O. Box 44005
Baton Rouge, Louisiana 70804

Dear Mr. Attorney General:

This is in reference to Act No. 21 (1982), of the Regular Session of the Louisiana Legislature, which creates additional district court judgeships for Judicial District Nos. 1, 15, 18, 23 and 27, divides the 29th Judicial District so as to create the 40th Judicial District, provides for the election of a district attorney in the 40th Judicial District and provides for the January 15, 1983,

special election to be held in that district in the State of Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on October 5, 1982.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: /s/ Carl Gabel
for Gerald Jones
Chief, Voting Section

[Exhibit D-3, 10/18/90 Hearing]

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

OCT 11 1977

Mr. Kenneth C. DeJean
Assistant Attorney General
State of Louisiana
Department of Justice
Baton Rouge, Louisiana 70804

Dear Mr. DeJean:

This is in reference to Act 164 and Act 620 of the 1977 Regular Session of the Louisiana Legislature, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on August 12, 1977.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney

General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division

By: /s/ Gerald W. Jones
for GERALD W. JONES
Chief, Voting Section

[Exhibit D-4, 10/18/90 Hearing]

U.S. Department of Justice

Washington, D.C. 20530

OCT 19 1981

Kenneth C. DeJean, Esq.
Assistant Attorney General
Department of Justice
Baton Rouge, Louisiana 70804

Dear Mr. DeJean:

This is in reference to Act No. 568, H.B. No. 1580 (1981), which provides for the October 17, 1981, referendum election; the creation of an additional judicial district; and the increase in the number of judges for the 16th, 22nd, 24th, and 29th Judicial Districts, in the State of Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on August 18, 1981.

The Attorney General does not interpose any objections to the October 17, 1981, referendum election and the increase in the number of judges for the above-mentioned districts. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

The provision of this Act with respect to the creation of an additional judicial district is viewed as enabling legislation. However, the Attorney General will make no determination with respect to that change since the proposition did not receive voter approval. See Section 51.14 of the Procedures for the Administration of

Section 5 (46 Fed. Reg. 875). Any future attempt to implement this change will be subject to the preclearance requirements of Section 5.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: /s/ Carl Gabel
for Gerald W. Jones
Chief, Voting Section

[Exhibit D-5, 10/18/90 Hearing]

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

SEP 20 1978

Mr. Kenneth DeJean
Assistant Attorney General
State of Louisiana
Department of Justice
Baton Rouge, Louisiana 70804

Dear Mr. DeJean:

This is in reference to Act No. 39 of the 1978 Regular Session of the Legislature of Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on July 26, 1978.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting rights Act expressly provides that the failure of the Attorney

General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division

By: /s/ Gerald W. Jones
GERALD W. JONES
Chief, Voting Section

[Exhibit D-6, 10/18/90 Hearing]

U.S. Department of Justice

Washington, D.C. 20530

August 18, 1986

L. Adrienne Dupont, Esq.
Staff Attorney
State of Louisiana
Department of justice
Baton Rouge, Louisiana 70804-9005

Dear Ms. Dupont:

This is in reference to four acts of the Louisiana Legislature creating judgeships (Act No. 3 (1965) -- District 9, Division C; District 19, Division F; District 21, Division C; District 24, Divisions F and G; Act No. 2 (1966) -- District 1, Division E; District 15, Division D; District 19, Division G; Civil District Court, Orleans Parish, Division I; Act No. 216 (1970) -- District 19, Divisions H, I, and J; and Act No. 5 (1972) -- District 19, Division

K) and to the procedures for conducting the September 27, 1986, special election and the November 4, 1986, runoff election to fill a vacancy for a judgeship (District 19, Division H), submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission of the additional judgeships on July 23, 1986, and your submission of the special elections on July 28, 1986. In accordance with your request, expedited consideration has been given this submission pursuant to the Procedures for the Administration of Section 5 (28 C.F.R. 51.32).

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section

5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See also 28 C.F.R. 51.42 and 51.48.

Because these submissions are related to matters before the court in Clark v. Edwards, C.A. No. 86-435 Sec. A (M.D. La.), we are taking the liberty of sending a copy of this letter to the court.

Sincerely,
Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: /s/ Sandra Coleman
for Gerald W. Jones
Chief, Voting Section

cc: C. Lee Dupuis, Esq.
Clerk, United States District Court
for the Middle District of
Louisiana

Ernest L. Johnson, Esq.
Johnson, Taylor & Thomas

Samuel Issacharoff, Esq.
Lawyers' Committee for Civil
Rights Under Law

Stipulation - District Court

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
1st	Caddo	A		NO		
		B		NO		
		C		NO		
		D		NO		
		E	Act 2 of 1966	YES	8/18/86	
		F	Act 117 of 1973	YES		9/23/88
		G	Act 46 of 1976	YES	8/11/76	
		H	Act 39 of 1978	YES	9/20/78	
		I	Act 21 of 1982	YES	12/2/82	
2d	Bienville Claiborne Jackson	A		NO		
		B		NO		
		C	Act 39 of 1978	YES	9/20/78	
3d	Lincoln Union	A		NO		
		B	Act 620 of 1977	YES	10/11/77	
4th	Morehouse Ouachita	A		NO		
		B		NO		
		C		NO		
		D	Act 480 of 1970	YES		9/23/88
		E	Act 46 of 1976	YES	8/11/76	
		F	Act 56 of 1984	YES		5/12/89
		G	Act 56 of 1984	YES		5/12/89
5th	Franklin Richland W. Carroll	A		NO		
		B		NO		
		C	Act 39 of 1978	YES	9/20/78	
6th	E. Carroll Madison Tensas	A		NO		
		B	Act 515 of 1974	YES		9/23/88
7th	Calahoula Concordia	A		NO		
		B	Act 39 of 1978	YES	9/20/78	

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
8th	Winn	A		NO		
		B	Act 46 of 1976	YES	8/11/76	
9th	Rapides	A		NO		
		B		NO		
		C	Act 3 of 1965	YES	8/18/86	
		D	Act 158 of 1971	YES		9/23/88
		E	Act 19 and Act 515 of 1974	YES		Both objected to 9/23/88
		F	Act 39 of 1978	YES	9/20/78	
10th	Natchitoches	A		NO		
		B	Act 635 of 1979[2/]	NO		
11th	Desoto Sabine	A		NO		
		B		NO		
12th	Avoyelles	A		NO		
		B	Acts 56 of 1984	YES	5/12/89	
13th	Evangeline	A		NO		
		B	Acts 156 of 1980	YES	2/17/89	
14th	Calcasieu	A		NO		
		B		NO		
		C		NO		
		D		NO		
		E	Act 40 of 1967	YES		9/23/88
		F	Act 332 of 1975	YES		9/23/88
		G	Act 322 of 1980	YES		9/23/88
		H	Act 322 of 1980	YES		9/23/88
15th	Acadia Lafayette Vermillion	A		NO		
		B		NO		

[2/] Act 635 of 1979 split the 10th Judicial District and created the 39th Judicial District. The parties cannot stipulate as to Act 635 of 1979.

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
		C		NO		
		D	Act 2 of 1966	YES	8/18/86	
		E	Act 360 of 1970	YES		9/23/88
		F	Act 43 of 1976	YES		9/23/88
		G	Act 39 of 1978	YES	9/20/78	
		H	Act 322 of 1980	YES		9/23/88
		I	Act 322 of 1980	YES		9/23/88
		J	Act 21 of 1982	YES	12/2/82	
		K	Act 226 of 1983	YES	10/7/83	
16th	Iberia, St. Martin, St. Mary	A		NO		
		B		NO		
		C		NO		
		D	Act 104 of 1968	YES		9/23/88
		E	Act 620 of 1977	YES	10/11/77	
		F	Act 568 of 1981	YES	10/19/81	
		G	Act 56 of 1984	YES		5/12/89
17th	Lafourche	A		NO		
		B		NO		
			Act 35 of 1967	YES	5/12/89[1]	
			Act 307 of 1968	YES	5/12/89[1]	
			Act 124 of 1970	YES	5/12/89[1]	
			Act 11 of 1972	YES	5/12/89[1]	
		C	Act 46 of 1976	YES	8/11/76	
		D	Act 215 of 1978	YES	9/19/78	
18th	Iberville, Pointe Coupee, West Baton Rouge	A		NO		
		B		NO		
		C	Act 86 of 1968	YES		9/23/88
		D	Act 21 of 1982	YES	12/2/82	
19th	East Baton Rouge	A		NO		
		B		NO		
		C		NO		

[1] The plaintiffs cannot at this time verify this information.

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
		D		NO		
		E		NO		
		F	Act 3 of 1965	YES	8/18/86	
		G	Act 2 of 1966	YES	8/18/86	
		H	Act 216 of 1970	YES	8/18/86	
		I	Act 216 of 1970	YES	8/18/86	
		J	Act 216 of 1970	YES	8/18/86	
		K	Act 5 of 1972	YES	8/18/86	
		L	Act 46 of 1976	YES	8/11/86	
		N	Act 39 of 1978	YES	9/20/78	
		Family Court A		NO		
		Family Court B	Acts 620 of 1977	YES	10/11/77	
		Family Court C	Act 620 of 1977	YES	10/11/77	
20th	E. Feliciana W. Feliciana	A		NO		
		B	Act 34 of 1981	YES		9/23/88
21st	Livingston, St. Helena, Tangipahoa	A		NO		
		B		NO		
		C	Act 3 of 1965	YES	8/18/86[1]	
		D	Act 9 of 1974	YES		9/23/88
		E	Act 620 of 1977	YES	10/11/77	
		F	Act 56 of 1984	YES		5/12/89
22d	St.Tammany, Washington	A		NO		
		B		NO		
		C	Act 23 of 1970	YES	9/23/88	
		D	Act 46 of 1976	YES	8/11/76	
		E	Act 39 of 1978	YES	9/20/78	
		F	Act 568 of 1981	YES	10/19/81	
		G	Act 8 of 1990	YES		DOJ has requested further information.

[1] The plaintiffs cannot at this time verify this information.

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
23d	Ascension, Assumption, St. James	A		NO		
		B		NO		9/23/88
		C	Act 464 of 1968	YES		
		D	Act 21 of 1982	YES	12/2/82	
24th	Jefferson	A		NO		
		B		NO		
		C		NO		
		D		NO		
		E		NO		
		F	Act 3 of 1965	YES	8/8/86	
		G	Act 3 of 1965	YES	8/8/86	
		H[1]				
		I[2]				
		J	Act 503 of 1974	YES		9/23/88
		K	Act 503 of 1974	YES		9/23/88
		L	Act 620 of 1977	YES	10/11/77	
		M	Act 39 of 1978	YES	9/20/78	
		N	Act 568 of 1981	YES	10/19/81	
		O	Act 568 of 1981	YES	10/19/81	
		P	Act 8 of 1990	YES		9/17/90
25th	Plaquemines	A		NO		
		B		NO		
		C		NO		
		D	Act 60 of 1970	YES	2/17/89	
	Split 25th, created 34th		Act 13 of 1975	YES	2/17/89	
26th	Bossier, Webster	A		NO		
		B		NO		
		C	Act 230 of 1970	YES	3/4/88[3]	
		D	Act 733 of 1975	YES	3/4/88[3]	
		E	Act 174 of 1989	YES		9/17/90

---

[1] The parties cannot stipulate as to Division H of the 24th JDC.

[2] The parties cannot stipulate as to Division I of the 24th JDC.

[3] The plaintiffs cannot at this time verify this information.

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
27	St. Landry	A		NO		
		B		NO		
		C	Act 158 of 1971	YES		9/23/88
		D	Act 21 of 1982	YES	12/2/88	
28th	LaSalle	A		NO		
29th	St. Charles	A		NO		
		B		NO		
		C	Act 94 of 1970	YES		9/23/88
		D	Act 39 of 1978	YES	9/20/78	
		E	Act 568 of 1981	YES	10/19/81	
	Split 29th, created 40th		Act 21 of 1982	YES	12/2/82	
30th	Vernon	A		NO		
		B	Act 11 of 1972	YES	5/12/89[3]	
		C	Act 46 of 1976	YES	8/11/76	
			Act 164 of 1977	YES	10/11/77	
31st	Jefferson Davis	A		NO		
			Act 694 of 1968	YES	5/12/89[3]	
32d	Terrebone	A	Act 307 of 1968	YES	5/12/89[3]	
		B	Act 307 of 1968	YES	5/12/89[3]	
			Act 124 of 1970	YES	1/9/89[3] and 5/12/89[3]	
			Act 11 of 1972	YES	5/12/89[3]	
		C	Act 515 of 1974	YES		9/23/88
		D	Act 84 of 1974	YES	5/12/89[3]	
		E	Act 516 of 1979 and Act 519 of 1979	YES	Both precleared 5/12/89[3]	
33d	Allen	A	Act 694 of 1968	YES	5/12/89[3]	
34th	St. Bernard	A	Act 13 of 1975	YES	2/17/89	
		B	Act 13 of 1975	YES	2/17/89	
		C	Act 620 of 1977	YES	10/11/77	

---

[3] The plaintiffs cannot at this time verify this information.

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
		D	Act 611 of 1989	YES		YES[1]
35th	Grant	A	Act 47 of 1976	YES	8/11/76	
36th	Beauregard	A	Act 164 of 1977	YES	10/11/77	
37th	Caldwell	A	Act 620 of 1977	YES	10/11/77	
38th	Cameron	A	Act 14 of 1978 and Act 39 of 1978	YES	Both precleared 9/18/78	
39th	Red River	A	Act 635 of 1979[2]			
40th	St. John the Baptist	A	Act 21 of 1982	YES	12/2/82	
		B	Act 21 of 1982	YES	12/2/82	
		C	Act 608 of 1989 Act 611 of 1989	YES		9/17/90

[1] The plaintiffs cannot at this time verify this information.

[2] Act 635 of 1979 split the 10th Judicial District and created the 39th Judicial District. The parties cannot stipulate as to the 39th JDC.

Stipulation - Court of Appeal

Cir.	District	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
1	2	C	Acts 114, 1975	YES	NO	9/23/88
1	3	C	Acts 114, 1975	YES	NO	9/23/88
1	adopted designated divisions		Acts 305, 1975	YES	NO	9/23/88
2	at-large		Act 114 of 1975	YES	NO	9/23/88
2	1	C	Act 8 of 1990	YES	NO	9/17/90
2	3	C	Act 8 of 1990	YES	NO	9/17/90
3	1	C	Act 801 of 1987	YES	NO	9/23/88
3	2	C	Act 801 of 1987	YES	NO	9/23/88
3	3	C	Act 801 of 1987	YES	NO	9/23/88

RUBIN, CURRY, COLVIN & JOSEPH
A PROFESSIONAL LAW CORPORATION

October 20, 1990

VIA FEDERAL EXPRESS
The Honorable W. Eugene Davis Judge
United States Court of Appeals
for the Fifth Circuit
Suite 300, 556 Jefferson St.
P.O. Box 19
Lafayette, La. 70501

VIA HAND DELIVERY
The Honorable John V. Parker, Chief Judge
United States District Court
Middle District of Louisiana
Suite 228, 707 Florida Boulevard
Baton Rouge, LA 70801

VIA HAND DELIVERY
The Honorable Frank J. Polozola, Judge
United States District Court
Middle District of Louisiana
Suite 228, 707 Florida Boulevard
Baton Rouge, LA 70801

Re: Clark v. Roemer, Three Judge Court
Docket No. 86-345 A

Dear Judges Davis, Parker and Polozola:

Attached is the chart to which the parties have stipulated. The attached chart has been agreed to by the plaintiffs, the State Defendants, and the

Louisiana District Judges Association. Our law firm has been authorized to transmit this chart as the stipulated position of the State of Louisiana (through the offices of the Governor, the Attorney General and the Secretary of State).

As you will note from the footnotes to the chart, the parties could not reach a stipulation on the following judicial districts:

10th JDC, Natchitoches Parish
24th JDC, Divisions H & I, Jefferson Parish
39th JDC, Red River Parish

The reasons the parties could not reach agreement on these areas is that the plaintiffs wanted explanatory material added to the chart; the defendants did not believe that the Court wanted and explanation of positions, but rather only a listing of those areas

where disagreement occurred. The result was a stipulated chart that left the areas of disagreement blank with a note that the parties could not reach agreement on these particular items.

This letter will set forth the position of the State Defendants and the LDJA on these points on which agreement could not be reached.

Attached you will find additional versions of pages 3, 8, 9 and 12 to the chart; these pages contain the versions of the chart that the Governor and the LDJA contend should be used for the 10th, 24th, and 39th Judicial Districts.

Concerning the 10th and 39th JDC

Act 635 of 1979 split the old 10th JDC (which had previously consisted of both Natchitoches and Red River Parishes) and created the 39th JDC, to be comprised

only of Red River Parish. As part of Act 635, a special election was called. On November 13, 1979 the Justice Department precleared the special election; a copy of the Department's letter is attached as Exhibit D-1 from the September 28, 1990 hearing. At this point in time, no one can locate the letter requesting preclearance.

It is the position of the Governor, the Attorney General, the Secretary of State, and the LDJA that preclearance of the special election by necessity was a preclearance of the split of the judicial districts. Act 635 was clear on its face that it both created a judicial district and called a special election; the Justice Department's preclearance of the election required it to look at the entire statute, and the statute is

absolutely clear about the split of districts. When the statute is clear about what it is accomplishing, the current unavailability of the transmittal letter itself sending the statute itself need not be a stumbling block. The pertinent provisions of Act 635 provide:

> Section 6. There is hereby established the office of judge for the Thirty-Ninth Judicial District Court, to be composed of the parish of Red River as provided in this Act.
>
> The Judge herein provided for shall be elected at large from the parish of red River * * *.
>
> The first judge elected to the judgeship shall be elected at the special election hereinafter provided for and shall serve for a term which shall expire at the same time as is provided by law for the other judges of the district courts throughout the state.
>
> Section 8. The governor, within fifteen days after the effective date of this Section, shall call a special election, to be held at the same time as the gubernatorial primary elections to be held in 1979, to submit to a vote of the voters of the **existing Tenth Judicial District, being the parishes of**

> **Natchitoches and Red River**, for their approval or disapproval . . . [of] the following proposition in substantially the following form: (emphasis supplied).
>
> > FOR the proposition that the Tenth Judicial District be divided, effective March 1, 1980, by the establishment of the Thirty-Ninth Judicial District composed of Red River Parish, and continuing the Tenth Judicial District composed of Natchitoches Parish as provided by . . . the 1979 Regular Session of the Louisiana Legislature.
>
> and also:
>
> > AGAINST the proposition that the Tenth Judicial District be divided, effective March 1, 1980, by the establishment of the Thirty-Ninth Judicial District composed of Red River Parish, and continuing the Tenth Judicial District composed of Natchitoches Parish as provided by . . . the 1979 Regular Session of the Louisiana Legislature.
>
> Section 9. If the proposition submitted to the electors as provided for in Section 8 of this Act is approved by the electors then:
>
> 1) On and after March 1, 1980, the Tenth and Thirty-Ninth Judicial Districts shall be composed as is provided in . . . of this Act.

> 2) The governor, within fifteen days after the results of the referendum . . . shall call a special election for the purpose of electing a judge and a district attorney for the Thirty-Ninth Judicial District. The primary election shall be held on the first Saturday in January, 1980, and the general election shall be on the sixth Saturday after the first Saturday in January, 1980.
> * * *

Section 13. For the purpose of transmission of this Act to the United States Department of Justice, as required by federal law, this Act shall be come effective upon signature by the governor . . .

Therefore, the State Defendants and the LDJA contend that the 1979 Department of Justice letter operated to preclear the split, the creation of a judgeship for Red River Parish, and the 1980 election of the judge for Red River Parish.

For some reason unknown to the State Defendants, the Department, in its

September 23, 1988 letter, now refuses to grant preclearance. It is the State Defendant's position that the preclearance has been obtained an the Department may not withdraw that preclearance nine years after it has been granted.

The plaintiffs, through Mr. McDuff, has informed us today that he would not stipulate to any information being put in columns 6, 7, or 8 of the chart concerning the 10th and 39th Judicial Districts unless a detailed footnote was given.[1/]

[1/] The footnotes the plaintiffs wanted were:

> "The defendants contend that the November 13, 1979 preclearance letter, which is ex. D-1 at the 9/28/90 hearing of this case, precleared the split. The plaintiffs contend to the contrary and contend that the Nov. 13, 1979 letter specifically precleared only "the special

(Footnote continued on following page)

Concerning the 24th JDC

There are two judgeships at issue, Divisions H and I. As this Court is aware, Louisiana statutes do not list judgeships; the judicial statute only lists the number of judges. The pertinent provision for the 24th JDC is R.S. 13:621.24.

Act 5 of 1972 made it clear that there were to be nine judges in the 24th JDC as of that date, and that Act was

---

[1/](Footnote continued from preceding page) election for the Tenth Judicial District" provided by Act 635, and did not preclear the split of the district. The plaintiffs further contend that there is no indication that the split was submitted under Section 5 prior to the Nov. 13, 1979 letter."

The second footnote the plaintiffs wanted was: "The Assistant Attorney General's 9/23/88 letter objected to the split. The defendants contend there was prior preclearance, as noted in the previous footnote. The plaintiffs contend otherwise."

precleared by a letter of August 18, 1986. For some unexplained reason, the Department of Justice refused (by a letter of September 23, 1988) to preclear Act 78 of 1965.

Act 5 of 1972 (which was precleared) stated that there were 9 judges in the 24th JDC; Act 78 of 1968 provided for the election of the two new seats from 7 to 9. It is the State Defendant's position that the preclearance of the 1972 Act (by a letter of 1986) certainly of necessity constitutes preclearance of these two additional judgeships; the Department and the plaintiffs have no basis to now contend that the statute 1968 Act that called for the elections to fill these two new seats was not by necessity precleared.[2/]

[2/] The pertinent provisions of Act 78 (Footnote continued on following page)

The lengthy footnote that the plaintiffs wanted inserted into the chart[3/] was unnecessary and argumentative; as can be seen by the attachments, the proposed page of the chart concerning the 24th JDC merely notes the basic facts of the parties' disagreement.

[2/](Footnote continued from preceding page) provide:

Section 3. * * * The first judges to be selected to fill the additional judgeships herein created shall be elected at a special election . . ."

[3/] The footnote proposed by the plaintiffs was: "The Plaintiffs are unable to confirm that Act 5 was precleared, and contend that there has been no proof presented to show that it was precleared, or to demonstrate the scope of Act 5 or any Section 5 submission or preclearance. Further, the plaintiffs contend that even if Act 5 was precleared, it did not create Divisions H and I, and that its preclearance does not excuse the failure to preclear Act 78, which did create Divisions H and I."

One Additional Matter

Finally, with regard to the Stipulation on the Courts of Appeal, the chart does not make reference to an act which the State Defendants and the LDJA feel must be brought to the attention of the Court. Act 3 of 1981 amended R.S. 13:321.1 to increase the number of judges on the First Circuit from 9 to 12. This Act was precleared by the Department of Justice on August 6, 1981; a copy of the State of Louisiana's submission letter requesting preclearance and a copy of the preclearance letter from the Department of Justice are attached to this letter. The plaintiffs, the State Defendants and the LDJA contend that it precleared not only the addition of judges but the assignment of those judgeships to district and divisions.

Therefore, while the parties can stipulate to the chart that was submitted, the State Defendants and the LDJA assert that their proposed revisions are a more clear explanation of each seat's current status.

Sincerely,

/s/ Michael H. Rubin
Michael H. Rubin

/s/ Robert H. Pugh
Robert H. Pugh

MHR/tah
Enclosures
cc: Mr. John Kennedy
Mr. Ernest L. Johnson
Honorable Fred J. Cassibry
Ms. Yvonne L. Hughes
Honorable Frank Foil
Mr. Robert P. McLeod
Mr. Jack C. Benjamin
Mr. Thomas J. DeJean
Mr. Harry A. Rosenberg
Mr. Kenneth C. DeJean
Ms. Cynthia Rougeau
Mr. Robert B. McDuff
Mr. Roy Mongrue
Mr. Ulysses Gene Thibodeaux

[One of the attachments to this letter, the defendants' proposed substitute chart

pages, is reproduced in the following pages. The second attachment was a copy of exhibit D-6 from the 9/28/90 hearing, and it is reproduced elsewhere in the Joint Appendix. The third attachment was the stipulated chart of the parties, and it is reproduced elsewhere in the Joint Appendix].

[Defendants' substitute chart pages attached to Rubin letter of 10-20-91].

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
		C	Act 3 of 1965	YES	8/18/86	
		D	Act 158 of 1971	YES		9/23/88
		E	Act 19 and Act 515 of 1974	YES		Both objected to 9/23/88
		F	Act 39 of 1978	YES	9/20/78	
10th	Natchitoches	A		NO		
		B		NO		
			Act 635 of 1979	YES	11/13/79[1]	9/23/88[2]
11th	Desoto, Sabine	A		NO		
		B		NO		
12th	Avoyelles	A		NO		
		B	Acts 56 of 1984	YES	5/12/89	
13th	Evangeline	A		NO		
		B	Acts 156 of 1980	YES	2/17/89	
14th	Calcasieu	A		NO		
		E	Act 39 of 1978	YES	9/20/78	
		F	Act 568 of 1981	YES	10/19/81	
		G	Act 8 of 1990	YES		DOJ has requested further information
23rd	Ascension, Assumption, St. James	A		NO		
		B		NO		
		C	Act 464 of 1968	YES		9/23/88
		D	Act 21 of 1982	YES	12/2/82	

[1] The plaintiffs do not believe this preclearance affects the split of the 10th Judicial District, only the special election. The State's position is to the contrary.

[2] Plaintiffs contend there was never preclearance of any split. The State contends the preclearance was valid and denial is an untimely attempt to reverse the preclearance.

[Defendants' substitute chart pages attached to Rubin letter of 10-20-91].

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
24th	Jefferson	A		NO		
		B		NO		
		C		NO		
		D		NO		
		E		NO		
		F	Act 3 of 1965	YES	8/18/86	
		G	Act 3 of 1965	YES	8/18/86	
		H	Act 78 of 1968 and Act 674 of 1968; Act 5 of 1972.	YES	Act 5 of 1972; 8/18/86[1]	Acts 78 and 674 of 1968 9/23/88
		I	Act 78 of 1968 and Act 674 of 1968; Act 5 of 1972	YES	Act 5 of 1972; 8/18/86[1]	Acts 78 and 674 of 1968 9/23/88
		J	Act 503 of 1974	YES		9/23/88
		K	Act 503 of 1974	YES		9/23/88
		L	Act 620 of 1977	YES	10/11/77	
		M	Act 39 of 1978	YES	9/20/78	
		N	Act 568 of 1981	YES	10/19/81	
		O	Act 568 of 1981	YES	10/19/81	
		P	Act 8 of 1990	YES		9/17/90
25th	Plaquemines	A		NO		
		B		NO		
		C		NO		
		D	Act 60 of 1970	YES	2/17/89	
	Split 25th, created 24th		Act 13 of 1975	YES	2/17/89	
26th	Bossier, Webster	A		NO		
		B		NO		
		C	Act 230 of 1970	YES	3/4/88*	

[1] Plaintiffs contend that Acts 78 and 674 of 1968 created Divisions H and I. The state contends that Act 5 of 1972 confirmed the creation of the 9th Judgeship in the 24th JDC.

[2] Plaintiffs contend that Act 78 and 674 of 1968 created Divisions H and I. The state contends that Act 5 of 1972 confirmed the creation of the 9th Judgeship in the 24th JDC.

[Defendants' substitute chart pages attached to Rubin letter of 10-20-91].

JDC	Parish	Division	Added	Preclearance Requested	Preclearance Granted	Preclearance Denied
39th	Red River	A	Act 635 of 1979	YES	11/13/79[2]	9/23/88[3]
40th	St. John the Baptist	A	Act 21 of 1982	YES	12/2/82	
		B	Act 21 of 1982	YES	9/17/90	
		C	Act 608 of 1989, Act 611 of 1989			

[2]The plaintiffs do not believe this preclearance affects the split of the 10th Judicial District into the 10th and 39th Judicial Districts. The State's position is to the contrary.

[3]Plaintiffs contend there was never preclearance of any split. The State contends the preclearance was valid and the denial is an untimely attempt to reverse the preclearance.

LAWYERS' COMMITTEE
FOR CIVIL RIGHTS UNDER LAW
SUITE 400 * 1400 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20005
PHONE (202) 371-1212

October 20, 1990

By Telecopier

Hon. John V. Parker
United States District Judge
707 Florida St.
Room 228
Baton Rouge, LA 70801

RE: Clark v. Roemer, No. 86-435-A

Dear Judge Parker:

The stipulated chart being forwarded to you today contains no stipulations regarding the 10th and 39th judicial districts, and Divisions H and I of the 24th judicial district. This letter is to explain the plaintiffs' position regarding these districts, and to add a point regarding the First Circuit Court of Appeal.

1. Elections should be enjoined for the 10th and the 39th judicial districts. The former 10th judicial district, composed of Natchitoches and Red River Parishes, was split by Act 635 of 1979, leaving Natchitoches Parish in the 10th with two judges, and creating the new 39th composed of Red River Parish, with one judge. That split was never precleared and was the subject of a Section 5 objection issued in the Assistant Attorney General's September 23, 1988 letter. However, at the September 28, 1990 hearing before the three-judge court, the defendants introduced as Exhibit D-1 a November 13, 1979 letter from the then Assistant Attorney General preclearing "the special election for the Tenth Judicial District in Louisiana (Act 635 (1979)) submitted

to the Attorney General pursuant to Section 5." The defendants apparently contend that letter also precleared the split of the district. The plaintiffs disagree. The letter indicates that, at most, a special election provided in the Act was submitted and precleared, but does not indicate that the split of the district was submitted and precleared. The defendants have offered no proof to demonstrate that the split of the district was precleared, and have not introduced into evidence the submission made under Section 5 that led to the November 13, 1979 letter. Indeed, a review of the portion of Act 635 contained in the annotations to La. Rev. Stat. 13:477 (under the heading "1979 legislation") indicates that the only special election to be held in the 10th

judicial district was a referendum election to be held in the pre-existing two-parish district. Preclearance of the scheduling and holding of a special election does not constitute preclearance of the creation of new judicial district. Accordingly, since no preclearance was ever obtained for the configuration of new districts, and since they are the subject of a Section 5 objection, elections may not be held in the new districts.

2. Divisions H and I (the 8th and 9th judgeships) of the 24th judicial district were created by Acts 78 and 674 of 1978, both of which were the subject of a Section 5 objection on September 23, 1988. The defendants contend that a later act, Act 5 of 1972, provided there were to be nine judgeships in the 24th

district, and they further contend that act was precleared on August 18, 1986 and this excuses the failure to preclear Acts 78 and 674. The plaintiffs disagree with this for two reasons. First, we are unable to confirm that Act 5 was actually precleared. We have never seen a copy of any preclearance letter or any submission made by the state. We do not believe these items were presented to the court by the defendants (if so, we were never provided copies). Thus, there is no proof that Act 5 was precleared, and there is no proof regarding the scope of Act 5 or the scope of any Section 5 submission or preclearance. Second, even if Act 5 was precleared, it did not create Divisions H and I, and therefore its preclearance cannot excuse the

failure to preclear Acts 78 and 674 of 1968, which did create Divisions H and I.

3. We contend that all elections for the First Circuit Court of Appeal should be enjoined for failure to preclear Act 305 of 1975, which provides for designated divisions in the First Circuit.

Thank you for your consideration of these views.

Sincerely,

/s/ Robert B. McDuff
Robert B. McDuff
Co-counsel for Plaintiffs

cc: Mike Rubin (by telecopier)
Ken DeJean "
Cynthia Rougeau "
Robert Pugh "
Fred Cassibry "

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JANICE G. CLARK, ET AL

VERSUS CIVIL ACTION
NUMBER 86-435-A

CHARLES "BUDDY" ROEMER, ET AL.

RULING OF THE THREE-JUDGE COURT ON PLAINTIFFS' MOTION TO THE THREE JUDGE COURT TO STAY THAT PORTION OF THE COURT'S OCTOBER 22, 1990 ORDER PERMITTING ELECTED JUDGES TO TAKE THE JUDICIAL OATH OF OFFICE

The court has carefully considered the motion filed on behalf of plaintiffs and concludes that it is not meritorious. Accordingly, the motion is hereby DENIED.

Baton Rouge, Louisiana, October 25, 1990.

/s/ W. Eugene Davis
JUDGE W. EUGENE DAVIS,
UNITED STATES CIRCUIT JUDGE

/s/ John V. Parker
JUDGE JOHN V. PARKER,
CHIEF JUDGE
MIDDLE DISTRICT OF LOUISIANA

/s/ Frank J. Polozola
FRANK J. POLOZOLA,
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

----------X

JANICE G. CLARK, et al.

Plaintiffs,

vs.

CIVIL ACTION
NO. 86-435
SEC. A

CHARLES "BUDDY" ROEMER,
GOVERNOR OF LOUISIANA;
et al.

Defendants.

----------X

PLAINTIFFS' MOTION TO THE THREE-JUDGE COURT TO PREVENT JUDGES FROM HOLDING OFFICE IN THE JUDGESHIPS FOR WHICH NO CANDIDATE WAS ELECTED BECAUSE OF THE INJUNCTION OF THE UNITED STATES SUPREME COURT

[Filed December 27, 1990]

The plaintiffs move for an order by the three-judge court enjoining the state defendants from permitting anyone to serve as a judge past January 1, 1991, in any of the unprecleared seats for which

no candidate was elected because of the November 2, 1990 injunction (as modified on November 5, 1990) of the United States Supreme Court in this case. In support of this motion, the plaintiffs state as follows:

1. This Court retains jurisdiction to consider this motion. In its October 22, 1990 order and October 31, 1990 opinion, the Court specifically retained jurisdiction of this case. No final judgment has been issued. Although a notice of appeal has been filed by the plaintiffs, it is an appeal from this Court's denial of injunctive relief, and not from any final judgment. See 28 U.S.C. Section 1253 ("any party may appeal to the Supreme Court from an order granting or denying . . . an interlocutory or permanent injunction in

any civil action . . . determined by a district court of three judges"). If a final judgment had been issued and appealed, this Court might lack jurisdiction to entertain further proceedings. But here, no final judgment has been issued and the appeal is from the specific denial of injunctive relief. Thus, as stated in the October 22 order and the October 31 opinion, this Court retains jurisdiction of the case.[7/]

[7/] The plaintiffs' original notice of appeal was filed October 26. Had that notice of appeal deprived this Court of any jurisdiction, this Court would have been unable to issue its October 31 modification of the October 22 order regarding District 20-B, and would have been unable to make the statement in the October 31 opinion specifically retaining jurisdiction of the case. However, this Court was correct in stating that it still has the power to retain jurisdiction even after the notice of appeal from the denial of injunctive relief.

Accordingly, this motion may be entertained.

2. Only recently have the plaintiffs been told that the State defendants intend to allow incumbent judges to remain in office in the unprecleared judicial seats for which no candidate was elected because of the Supreme Court's November 2, 1990 injunction. That notification did not come in writing, but was given orally by John Kennedy, special counsel to the Governor. For the past few weeks, the plaintiffs have attempted to learn the position of the State defendants regarding these judgeships, but were not told of the defendants' plans until a few days ago.

3. In the application the plaintiffs filed with the United States

Supreme Court prior to the November 2 injunction, the plaintiffs stated that this three-judge district court has the discretion under Brooks v. State Board of Elections, No. 288-146 (S.D. Ga. order of May 29, 1990), aff'd, No. 90-272, 59 U.S.L.W. 3293 (Oct. 15, 1990), to permit incumbents to hold over in unprecleared seats if the elections are enjoined and if the State seeks preclearance in the District of Columbia. However, the State defendants have never asked this Court, in the wake of the Supreme Court's injunction, to exercise its discretion and permit the incumbents to hold over.

4. Given that the Louisiana acts creating the unprecleared judgeships are unenforceable, the State defendants do not have the power, absent an order of this Court, to allow incumbents to hold

over in those judgeships. Unless this Court exercises its discretion, those judgeships are null and void.

5. None of the orders of this Court, including the October 22, 1990 order, permit the incumbents to hold over in the seats for which no candidates were elected due to the Supreme Court's injunction. The October 22 order allows candidates elected in the October 6, November 6, and December 8 elections to hold office provisionally while the State seeks preclearance in the District of Columbia. However, the November 6 and December 8 elections in certain seats were enjoined by the Supreme Court, and in some of those seats no candidate has been elected. This Court's October 22 order contains nothing allowing

incumbents to hold over in those seats in the absence of an election.

6. In light of the fact that the State has not timely filed a motion requesting this Court to exercise its discretion and permit the incumbents to remain in office, this Court should not permit the incumbents to remain in office. By failing to seek relief from this Court and failing to inform the Court of their intentions, the State defendants continue to display the contempt for federal law that has characterized their actions throughout these Section 5 proceedings.

7. Even if the State had timely filed a motion asking this Court to exercise its discretion to permit incumbents to hold over, the Court should not exercise its discretion in that

fashion. The unprecleared changes are null and void under Section 5. The Supreme Court has enjoined the November 6 and December 8 elections for certain seats and has not said anything about permitting incumbents to remain in office. The incumbents currently in those judicial seats attained office in prior elections that violated Section 5. Vigorous enforcement of Section 5 requires that incumbents illegally elected be prevented from holding over in seats that are unprecleared.

8. The judgeships subject to the Supreme Court's injunction and for which no candidates were elected, and in which incumbents have been sitting, are as follows:

4th district, division G

14th district, divisions E, F, and G.

The remaining judgeships included within the Supreme Court's injunction all had candidates elected prior to November 6, either by virtue of being unopposed or being elected in an October 6 primary, or are new judgeships in which no incumbent has ever sat (22-G and 24-P).[8/] The Supreme Court did not enjoin the persons elected prior to November 6 from taking office, and the plaintiffs accordingly are not asking this Court to take further action regarding the judgeships in which someone was elected prior to November 6.

8/ The listing of which judgeships had candidates elected prior to November 6 and which did not is based upon representations made to plaintiffs' counsel by the Governor's attorney, Robert Pugh, in a November 5, 1990 letter.

One of the judgeships subject to the Supreme Court's injunction and in which a candidate was elected October 6 (6th district, division B) has since been precleared by the Attorney General.

However, for those judgeships listed above in which no one was elected due to the Supreme Court's injunction against the November 6 and December 8 elections, this Court should issue an injunction preventing the State defendants from allowing any judge to remain in office past January 1, 1990, when the current terms of office expire.

9. The judgeships in district 22, division G and district 24, division P are recently created judgeships in which no incumbent sits because no election has been held. Both judgeships were scheduled to be filled by election on November 6 and the Supreme Court's injunction prevented the election. The state defendants have not indicated any intention to fill those unprecleared seats through appointment. Any action to

that effect would violate Section 5 and the Supreme Court's injunction.

In light of the foregoing, this Court should issue an order preventing the State defendants from permitting any judge to serve past January 1, 1990 in any judgeship for which no candidate was elected due to the Supreme Court's injunction.

A memorandum of authorities accompanies this motion, and a proposed order also is submitted.

Respectfully submitted:

/s/ Ernest L. Johnson
ERNEST J. JOHNSON
T. RICHARDSON BOBB
Johnson, Taylor & Thomas
5700 Florida Boulevard
Republic Tower Suite 209
Baton Rouge, LA 70806
(504) 929-7676

/s/ Robert B. McDuff
ROBERT B. MCDUFF
Lawyers' Committee for
Civil Rights Under Law

1400 Eye Street, N.W.
Suite 400
Washington, D.C. 20005
(202) 371-1212

ULYSSES GENE THIBODEAUX
1925 Enterprise Boulevard
Lake Charles, LA 70601
(318) 439-1060

Counsel for Plaintiffs

[Certificate omitted in printing]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF LOUISIANA

JANICE CLARKE et al., Plaintiffs, v. CHARLES E. ROEMER, et al. Defendants	)	CIVIL ACTION NO. 86-435 Section A
UNITED STATES OF AMERICA, Amicus Curiae.	)	

RESPONSE OF THE UNITED STATES TO PLAINTIFFS' MOTION TO PREVENT CERTAIN PERSONS FROM HOLDING OVER IN OFFICE

On December 27, 1990, the plaintiffs filed a motion seeking to enjoin any person from serving "as a judge past January 1, 1991, in any of the four unprecleared seats [4th Judicial District, Division G and 14th Judicial

District, Divisions E, F, and G] for which no candidate was elected" as a result of the injunction issued by the United States Supreme Court. Pursuant to this Court's order, the United States submits this response.

The four judgeships at issue are among fourteen judgeships[9/] which this Court has found to be subject to a valid Section 5 objection interposed by the Attorney General.[10/] Of the fourteen judgeships, five positions were filled at the election conducted on October 6,

---

9/ Originally, there were fifteen such judgeships but on November 20, 1990, the Attorney General withdrew the objection to one.

10/ This Court also has determined that the Attorney General's objections to another, discrete category of judgeships was not timely. The plaintiffs' motion does not affect any of these positions.

1990.[11/] When this Court ruled on October 22, 1990, there were nine judgeships where the 1990 election cycle had not begun or was not completed (because no candidate received a majority of votes cast on October 6, 1990). Five of these judgeships[12/] were newly-created positions which had never been filled and the four at issue here had incumbents. With regard to these judgeships, this Court ordered that elections would be held on November 6 and December 8, 1990, if necessary.

11/ District 4, Division F; District 14, Division H; District 16, Division G; District 20, Division B; and District 21, Division F.

12/ District 22, Division G; District 24, Division P; District 26, Division E; Second Circuit Court of Appeal, District 1, Division C; and Second Circuit Court of Appeal, District 3, Division C.

The October 22 order also provided that persons elected to the unprecleared judgeships would serve "provisionally" contingent upon the state's compliance with a schedule for obtaining Section 5 preclearance. In sum, the schedule requires that by January 22, 1991, the state must either obtain Section 5 preclearance of the unprecleared judgeships from the Attorney General or file a declaratory judgment action seeking Section 5 preclearance in the United States District Court for the District of Columbia. If the state fails to do so, all the unprecleared judgeships will cease to exist with the result that there will be no judgeships in which persons may hold over. As of this date, the Attorney General has received no request for reconsideration from the

state nor has the state filed a declaratory judgment action in the District of Columbia district court.

On November 2, 1990, the Supreme Court granted the plaintiffs' request for an injunction pending appeal of the elections scheduled for November 6 and December 8, 1990, for the judgeships found by this Court to be subject to a valid Section 5 objection.[13/] As a result of the Supreme Court's action, elections for these judgeships, including the four at issue, did not occur.

As we have noted above, Part III of the October 22 order provided that persons elected to the unprecleared positions in the 1990 elections would serve "provisionally." The order also

---

[13/] The plaintiffs' request for additional injunctive relief concerning other judgeships was denied.

established the conditions under which they would continue to hold office. By their motion the plaintiffs seek to prevent persons in four judgeships[14/] from holding over as "provisional" officeholders under the same conditions imposed on persons serving in the other unprecleared judgeships because they were not elected during the 1990 election cycle.

As we previously have informed this Court, it may be appropriate for judges whose terms expired on December 31, 1990, to hold over in office as long as the Court requires the state to seek

---

14/ Our information is that one of the four judgeships currently is held by person appointed to replace a judge who had retired. We believe that, under this Court's order (Pt. III(7)), a person named to replace a judge may hold over on a "provisional" basis under the same conditions as other persons in the unprecleared judgeships.

compliance with Section 5 within a prescribed time period.[15/] We believe that such a course of action is appropriate in order to avoid any possible disruption of the state's judicial system that might occur if sitting judges elected in violation of Section 5 were not permitted to occupy the seats at issue pending the election of their successors pursuant to valid election procedures. That concern is fully satisfied by permitting incumbents to hold over in office on a provisional basis. Movants here have not pointed to any reason why those incumbent judges

---

15/ Under this Court's order, if the state fails to obtain such preclearance from the Attorney General or to seek preclearance from the District of Columbia district court within that time frame, all unprecleared judgeship positions will cease to exist as a matter of law.

elected prior to the 1990 election cycle should be treated differently from those judges elected as a result of the October 1990 elections and who will be permitted to take office on a provisional basis consistent with this Court's prior orders.

CONCLUSION

For the reasons set forth above, the plaintiffs' motion should be denied.

Respectfully submitted,

JOHN R. DUNNE
Assistant Attorney General

/s/ P. Raymond Lamonica
P. RAYMOND LAMONICA 7944
United States Attorney
Middle District of
Louisiana
339 Florida Street
Baton Rouge, LA 70801
504/389-0443

J. GERALD HEBERT
SANDRA S. COLEMAN
ROBERT S. BERMAN
Attorneys, Voting Section
Civil Rights Division
Department of Justice
P.O. Box 66128
Washington, DC 20035-6128
202/307-3718

[Certificate omitted in printing]

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

JANICE CLARK, ET AL

VERSUS CIVIL ACTION
NO. 86-435-A

CHARLES E. ROEMER, ET AL

AMENDED ORDER

[Filed January 11, 1991]

The court has pending before it a motion on behalf of plaintiffs to prevent certain state judges from continuing in office and to prevent the state from otherwise filling those offices. The state judgeships involved are among those the creation of which have not been "precleared" by the Attorney General of the United States as required by Section 5 of the Voting Rights Act of 1965, 42 U.S.C. §1965, 42 U.S.C. §1973c, and they are listed in Part II of this court's

order dated October 22, 1990. The specific judgeships which are the object of the motion are Division G of the Fourth Judicial District, Morehouse and Ouachita Parishes, and Divisions E, F and G of the Fourteenth Judicial District, Calcasieu Parish.

The court's order of October 22, 1990 scheduled elections for those judgeships (among others) for November 6, 1990 and if runoffs were required, for December 8, 1990 and the order authorized those persons elected to take office and serve provisionally as is set forth in Part III of the order. The Supreme Court, by its orders of November 2 and 5, 1990, set aside that portion of this court's order which authorized elections for judgeships which have not been precleared and enjoined the state

officials from conducting those elections.

Because the scheduled elections were enjoined, no person was elected to any of those judgeships and plaintiffs seek to enjoin the state from allowing those offices to be filled until the state has complied with the provisions of Section 5.

At present three of those offices are filled by incumbent judges whose terms expired on December 31, 1990. The other position has been filled by appointment by the Supreme Court of Louisiana under state law.

While the October 22, 1990 order may not authorize provisional filling of these specific judgeships, the spirit of the order is to avoid disruption of Louisiana's judiciary to the extent

possible until the preclearance issues are finally resolved. All of these judgeships were created and filled years ago. While one does not have an incumbent because of the retirement of the incumbent, each is an integral part of Louisiana's existing judicial system. Their loss would impinge upon that system.

While the State defendants have not moved for amendment of the earlier order, the court sua sponte will amend it.

Accordingly, IT IS ORDERED that the order of October 22, 1990 is hereby amended so as to allow Division G of the Fourth Judicial District and Divisions E, F, and G of the Fourteenth Judicial District to be provisionally filled in accordance with and under the terms and restrictions of Part III of that order.

Baton Rouge, Louisiana, January 11 , 1991.

/s/ W. Eugene Davis
W. EUGENE DAVIS
UNITED STATES CIRCUIT JUDGE

/s/ John V. Parker
JOHN V. PARKER
UNITED STATES DISTRICT JUDGE

/s/ Frank J. Polozola
FRANK J. POLOZOLA
UNITED STATES DISTRICT JUDGE